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THE

WORKS

OF

DANIEL WEBSTER.

VOLUME III.

SEVENTEENTH EDITION.

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DEDICATION

OF THE THIRD VOLUME.

TO

CAROLINE LE ROY WEBSTER.

My dearly beloved Wife:

I cannot allow these volumes to go to the press, without containing a tribute of my affections, and some acknowledgment of the deep interest that you have felt in the productions which they contain. You have witnessed the origin of most of them, not with less concern, certainly, than has been felt by their author; and the degree of favor with which they may now be received by the public will be as earnestly regarded, I am sure, by you as by myself.

The opportunity seems, also, a fit one for expressing the high and warm regard which I ever entertained for your honored father, now deceased, and the respect and esteem which I cherish towards the members of that amiable and excellent family to which you belong.

DANIEL WEBSTER.

MAR 31 1943

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IN THE

CONVENTION TO AMEND THE CONSTITUTION

OF THE

STATE OF MASSACHUSETTS.

VOL. III. 1

QUALIFICATIONS FOR OFFICE.*

In consequence of the separation of what is now the State of Maine from Massachusetts, in the year 1820, it became necessary to make some change in the constitution of the Commonwealth. The opportunity was thought a favorable one for a general revision of that instrument, which had undergone no amendment since its adoption in 1780. Delegates were accordingly chosen by the people to meet in convention for this purpose, the several towns and districts in the Commonwealth (there were then no cities) being allowed as many delegates as they were respectively entitled to send members to the House of Representatives of the State. Mr. Webster was among the delegates chosen by the town of Boston, and took an active and distinguished part in the business of the convention, both in committee-room and in debate.

As soon as the body was organized by the choice of its officers, the chief provisions of the existing constitution were referred to select committees, instructed to consider and report whether any, and if any, what amendments were desirable to be made in them. The subject of the official oaths and subscriptions required by the sixth chapter of the second part of the constitution was referred to a committee for this purpose, of which Mr. Webster was chairman. A report was made by this committee, recommending that, in lieu of all oaths and subscriptions then required, a simple oath of allegiance to the Commonwealth, together with the oath of office, should be taken by all persons chosen or appointed to office. The most important feature of these proposed changes was, that a profession of belief in the Christian religion was no longer required as a qualification for office.

The resolutions reported by this committee became the subject of a discussion, in the course of which, on the 4th of December, 1820, Mr. Webster made the following remarks: —

* Remarks, made on the 4th of December, 1820, in the Convention of Delegates chosen to revise the Constitution of Massachusetts, upon the Resolution relating to Oaths of Office.

It is obvious that the principal alteration proposed by the first resolution is the omission of the declaration of belief in the Christian religion as a qualification for office, in the cases of the governor, lieutenant-governor, councillors, and members of the legislature. I shall content myself on this occasion with stating, shortly and generally, the sentiments of the select committee, as I understand them, on the subject of this resolution.

Two questions naturally present themselves. In the first place, Have the people a right, if in their judgment the security of their government and its due administration demand it, to require a declaration of belief in the Christian religion as a qualification or condition of office? On this question, a majority of the committee held a decided opinion. They thought the people had such a right. By the fundamental principle of popular and elective governments, all office is in the free gift of the people. They may grant or they may withhold it at pleasure; and if it be for them, and them only, to decide whether they will grant office, it is for them to decide, also, on what terms and what conditions they will grant it. Nothing is more unfounded than the notion that any man has a *right* to an office. This must depend on the choice of others, and consequently upon the opinions of others, in relation to his fitness and qualification for office. No man can be said to have a right to that which others may withhold from him at pleasure. There are certain rights, no doubt, which the whole people, or the government as representing the whole people, owe to each individual in return for that obedience and personal service, and those proportionate contributions to the public burdens, which each individual owes to the government. These rights are stated with sufficient accuracy, in the tenth article of the Bill of Rights, in this constitution. "Each individual in society has a right to be protected by it in the enjoyment of his life, liberty, and property, according to the standing laws." Here is no right of *office* enumerated; no right of governing others, or of bearing rule in the State. All bestowment of office remaining in the discretion of the people, they have of course a right to regulate it by any rules which they may deem expedient. Hence the people, by their constitution, prescribe certain qualifications for office, respecting age, property, residence, and taxation. But if office, merely as such, were a *right* which each individual under the social compact

was entitled to claim, all these qualifications would be excluded. Acknowledged rights are not subject, and ought not to be subject, to any such limitation. The right of being protected in life, liberty, and estate is due to all, and cannot be justly denied to any, whatever be their age, property, or residence in the State. These qualifications, then, can only be made requisite as conditions for office, on the ground that *office* is not what any man can demand as matter of right, but rests in the confidence and good-will of those who are to bestow it. In short, it seems to me too plain to be questioned, that the right of office is a matter of discretion, and option, and can never be claimed by any man on the ground of obligation. It would seem to follow, then, that those who confer office may annex any such conditions to it as they think proper. If they prefer one man to another, they may act on that preference. If they regard certain personal qualifications, they may act accordingly, and ground of complaint is given to nobody. Between two candidates, otherwise equally qualified, the people at an election may decide in favor of one because he is a Christian, and against the other because he is not. They may repeat this preference at the next election, on the same ground, and may continue it from year to year.

Now, if the people may, without injustice, act upon this preference, and from a sole regard to this qualification, and refuse in any instance to depart from it, they have an equally clear right to prescribe this qualification beforehand, as a rule for their future government. If they may do it, they may agree to do it. If they deem it necessary, they may so say, beforehand. If the public will may require this qualification at every election as it occurs, the public will may declare itself beforehand, and make such qualification a standing requisite. That cannot be an unjust rule, the compliance with which, in every case, would be right. This qualification has nothing to do with any man's conscience. If he dislike the condition, he may decline the office, in like manner as if he dislike the salary, the rank, or any thing else which the law attaches to it.

But however clear the right may be (and I can hardly suppose any gentleman will dispute it), the *expediency* of retaining the declaration is a more difficult question. It is said not to be necessary, because in this Commonwealth ninety-nine out of

every hundred of the inhabitants profess to believe in the Christian religion. It is sufficiently certain, therefore, that persons of this description, and none others, will ordinarily be chosen to places of public trust. There is as much security, it is said, on this subject, as the necessity of the case requires. And as there is a sort of opprobrium incident to this qualification, — a marking out, for observation and censorious remark, of a single individual, or a very few individuals, who may not be able to make the declaration, — it is an act, if not of injustice, yet of unkindness, and of unnecessary rigor, to call on such individuals to make the declaration, and to exclude them from office if they refuse to do so.

There is also another class of objections, which have been stated. It has been said, that there are many very devout and serious persons, persons who esteem the Christian religion to be above all price, to whom, nevertheless, the terms of this declaration seem somewhat too strong and intense. They seem, to these persons, to require the declaration of that *faith* which is deemed essential to personal salvation; and therefore not at all fit to be adopted as a declaration of belief in Christianity, in a more popular and general sense. It certainly appears to me, that this is a mistaken interpretation of the terms; that they imply only a general assent to the truth of the Christian revelation, and, at most, to the supernatural occurrences which establish its authenticity. There may, however, and there appears to be, *conscience* in this objection; and all conscience ought to be respected. I was not aware, before I attended the discussions in the committee, of the extent to which this objection prevailed.

There is one other consideration to which I will allude, although it was not urged in committee. It is this. This qualification is made applicable only to the executive and the members of the legislature. It would not be easy, perhaps, to say why it should not be extended to the judiciary, if it were thought necessary for any office. There can be no office in which the sense of religious responsibility is more necessary than in that of a judge; especially of those judges who pass, in the last resort, on the lives, liberty, and property of every man. There may be among legislators strong passions and bad passions. There may be party heats and personal bitterness. But legislation is

in its nature general: laws usually affect the whole society; and if mischievous or unjust, the whole society is alarmed, and seeks their repeal. The judiciary power, on the other hand, acts directly on individuals. The injured may suffer, without sympathy or the hope of redress. The last hope of the innocent, under accusation and in distress, is in the integrity of his judges. If this fail, all fails; and there is no remedy, on this side the bar of Heaven. Of all places, therefore, there is none which so imperatively demands that he who occupies it should be under the fear of God, and above all other fear, as the situation of a judge. For these reasons, perhaps, it might be thought that the constitution has not gone far enough, if the provisions already in it were deemed necessary to the public security.

I believe I have stated the substance of the reasons which appeared to have weight with the committee. For my own part, finding this declaration in the constitution, and hearing of no practical evil resulting from it, I should have been willing to retain it, unless considerable objection had been expressed to it. If others were satisfied with it, I should be. I do not consider it, however, essential to retain it, as there is another part of the constitution which recognizes, in the fullest manner, the benefits which civil society derives from those Christian institutions which cherish piety, morality, and religion. I am clearly of opinion, that we should not strike out of the constitution all recognition of the Christian religion. I am desirous, in so solemn a transaction as the establishment of a constitution, that we should keep in it an expression of our respect and attachment to Christianity; — not, indeed, to any of its peculiar forms, but to its general principles.

BASIS OF THE SENATE.*

I know not, Sir, whether it be probable that any opinions or votes of mine are ever likely to be of more permanent importance, than those which I may give in the discharge of my duties in this body. And of the questions which may arise here, I anticipate no one of greater consequence than the present. I ask leave, therefore, to submit a few remarks to the consideration of the committee.

The subject before us, is the manner of constituting the legislative department of government. We have already decided, that the legislative power shall exist as it has heretofore existed, in two separate and distinct branches, a Senate and a House of Representatives. We propose also, at least I have heard no intimation of a contrary opinion, that these branches shall, in form, possess a negative on each other. I presume I may also take it for granted, that the members of both these houses are to be chosen annually. The immediate question now under discussion is, In what manner shall the senators be elected? They are to be chosen in districts; but shall they be chosen in proportion to the number of inhabitants in each district, or in proportion to the taxable property of each district, or, in other words, in proportion to the part which each district bears in the public burdens of the State. The latter is the existing provision of the constitution; and to this I give my support.

The resolution of the honorable member from Roxbury† proposes to divide the State into certain legislative districts, and

* Remarks made on the 15th of December, 1820, in the Convention, upon the Resolution to divide the Commonwealth into Districts for the Choice of Senators according to Population.

† General Dearborn.

to choose a given number of senators, and a given number of representatives, in each district, in proportion to population. This I understand. It is a simple and plain system. The honorable member from Pittsfield* and the honorable member from Worcester† support the first part of this proposition, that is to say, that part which provides for the choice of senators according to population, without explaining entirely their views as to the latter part, relative to the choice of representatives. They insist that the questions are distinct, and capable of a separate consideration and decision. I confess myself, Sir, unable to view the subject in that light. It seems to me, there is an essential propriety in considering the questions together; and in forming our opinions of them, as parts respectively of one legislative system. The legislature is one great machine of government, not two machines. The two houses are its parts, and its utility will, as it seems to me, depend not merely on the materials of these parts, or their separate construction, but on their accommodation, also, and adaptation to each other. Their balanced and regulated movement, when united, is that which is expected to insure safety to the State; and who can give any opinion on this, without first seeing the construction of both, and considering how they are formed and arranged with respect to their mutual relation? I cannot imagine, therefore, how the member from Worcester should think it uncandid to inquire of him, since he supports this mode of choosing senators, what mode he proposes for the choice of representatives.

It has been said that the constitution, as it now stands, gives more than an equal and proper number of senators to the county of Suffolk. I hope I may be thought to contend for the general principle, without being influenced by any regard to its local application. I do not inquire whether the senators whom this principle brings into the government will come from the county of Suffolk, from the valley of the Housatonic, or the extremity of Cape Cod. I wish to look only to the principle; and as I believe that to be sound and salutary, I shall give my vote in favor of maintaining it.

In my opinion, Sir, there are two questions before the committee. The first is, Shall the legislative department be con-

* Mr. Childs. † Mr. Lincoln.

structed with any other *check* than such as arises simply from dividing the members of this department into two houses? The second is, If such other and further check ought to exist, *in what manner* shall it be created?

If the two houses are to be chosen in the manner proposed by the resolutions of the member from Roxbury, there is obviously no other check or control than a division into separate chambers. The members of both houses are to be chosen at the same time, by the same electors, in the same districts, and for the same term of office. They will of course all be actuated by the same feelings and interests. Whatever motives may at the moment exist to elect particular members of one house, will operate equally on the choice of the members of the other. There is so little of real utility in this mode, that, if nothing more be done, it would be more expedient to choose all the members of the legislature, without distinction, simply as members of the legislature, and to make the division into two houses, either by lot or otherwise, after these members thus chosen should have come up to the capital.

I understand the reason of checks and balances, in the legislative power, to arise from the truth, that, in representative governments, that department is the leading and predominating power; and if its will may be at any time suddenly and hastily expressed, there is great danger that it may overthrow all other powers. Legislative bodies naturally feel strong, because they are numerous, and because they consider themselves as the immediate representatives of the people. They depend on public opinion to sustain their measures, and they undoubtedly possess great means of influencing public opinion. With all the guards which can be raised by constitutional provisions, we are not likely to be too well secured against cases of improper, or hasty, or intemperate legislation. It may be observed, also, that the executive power, so uniformly the object of jealousy to republics, has in the States of this Union been deprived of the greater part both of its importance and its splendor, by the establishment of the general government. While the States possessed the power of making war and peace, and maintained military forces by their own authority, the power of the State executives was very considerable and respectable. It might then even be an object, in some cases, of a just and warranta-

ble jealousy. But a great change has been wrought. The care of foreign relations, the maintenance of armies and navies, and their command and control, have devolved on another government. Even the power of appointment, so exclusively, one would think, an executive power, is, in very many of the States, held or controlled by the legislature; that department either making the principal appointments itself, or else surrounding the chief executive magistrate with a council of its own election, possessing a negative upon his nominations.

Nor has it been found easy, nor in all cases possible, to preserve the judicial department from the progress of legislative encroachment. Indeed, in some of the States, all judges are appointed by the legislature; in others, although appointed by the executive, they are removable at the pleasure of the legislature. In all, the provision for their maintenance is necessarily to be made by the legislature. As if Montesquieu had never demonstrated the necessity of separating the departments of governments; as if Mr. Adams had not done the same thing, with equal ability, and more clearness, in his Defence of the American Constitutions; as if the sentiments of Mr. Hamilton and Mr. Madison were already forgotten; we see, all around us, a tendency to extend the legislative power over the proper sphere of the other departments. And as the legislature, from the very nature of things, is the most powerful department, it becomes necessary to provide, in the mode of forming it, some check which shall insure deliberation and caution in its measures. If all legislative power rested in one house, it is very problematical whether any proper independence could be given, either to the executive or the judiciary. Experience does not speak encouragingly on that point. If we look through the several constitutions of the States, we shall perceive that generally the departments are most distinct and independent where the legislature is composed of two houses, with equal authority, and mutual checks. If all legislative power be in one popular body, all other power, sooner or later, will be there also.

I wish, now, Sir, to correct a most important mistake in the manner in which this question has been stated. It has been said, that we propose to give to property, merely as such, a control over the people, numerically considered. But this I take not to be at all the true nature of the proposition. The Senate

is not to be a check on the people, but on the House of Representatives. It is the case of an authority, given to one agent, to check or control the acts of another. The people, having conferred on the House of Representatives powers which are great, and, from their nature, liable to abuse, require, for their own security, another house, which shall possess an effectual negative on the first. This does not limit the power of the people; but only the authority of their agents. It is not a restraint on their rights, but a restraint on that power which they have delegated. It limits the authority of agents in making laws to bind their principals. And if it be wise to give one agent the power of checking or controlling another, it is equally wise, most manifestly, that there should be some difference of character, sentiment, feeling, or origin in that agent who is to possess this control. Otherwise, it is not at all probable that the control will ever be exercised. To require the consent of two agents to the validity of an act, and yet to appoint agents so similar, in all respects, as to create a moral certainty that what one does the other will do also, would be inconsistent, and nugatory. There can be no effectual control, without some difference of origin, or character, or interest, or feeling, or sentiment. And the great question in this country has been, where to find, or how to create, this difference, in governments entirely elective and popular.

Various modes have been attempted in various States. In some, a difference of qualification has been required in the persons to be elected. This obviously produces little or no effect. All property qualification, even the highest, is so low, as to produce no exclusion, to any extent, in any of the States. A difference of age in the persons elected is sometimes required; but this is found to be equally unimportant. Neither has it happened, that any consideration of the relative rank of the members of the two houses has had much effect on the character of their constituent members. Both in the State governments, and in the United States government, we daily see persons elected into the House of Representatives who have been members of the Senate. Public opinion does not attach so much weight and importance to the distinction, as to lead individuals greatly to regard it. In some of the States, a different sort of qualification in the electors is required for the two houses; and this is

probably the most proper and efficient check. But such has not been the provision in this Commonwealth, and there are strong objections to introducing it. In other cases, again, there is a double election for senators; electors being first chosen, who elect senators. Such is the case in Maryland, where the senators are elected for five years, by electors appointed in equal numbers by the counties; a mode of election not unlike that of choosing representatives in the British Parliament for the boroughs of Scotland. In this State, the qualification of the voters is the same for the two houses, and there is no essential difference in that of the persons chosen. But, in apportioning the Senate to the different districts of the State, the present constitution assigns to each district a number proportioned to its public taxes. Whether this be the best mode of producing a difference in the construction of the two houses, is not now the question; but the question is, whether this be better than no mode.

The gentleman from Roxbury called for authority on this subject. He asked, what writer of reputation had approved the principle for which we contend. I should hope, Sir, that, even if this call could not be answered, it would not necessarily follow that the principle should be expunged. Governments are instituted for practical benefit, not for subjects of speculative reasoning merely. The best authority for the support of a particular principle or provision in government is experience; and of all experience, our own, if it have been long enough to give the principle a fair trial, should be most decisive. This provision has existed for forty years, and while so many gentlemen contend that it is wrong in theory, no one has shown that it has been either injurious or inconvenient in practice. No one pretends that it has caused a bad law to be enacted, or a good one to be rejected. To call on us, then, to strike out this provision, because we should be able to find no authority for it in any book on government, would seem to be like requiring a mechanic to abandon the use of an implement, which had always answered all the purposes designed by it, because he could find no model of it in the patent-office.

But, Sir, I take the *principle* to be well established, by writers of the greatest authority. In the first place, those who have treated of natural law have maintained, as a principle of that law, that, as far as the object of society is the protection of

something in which the members possess unequal shares, it is just that the weight of each person in the common councils should bear a relation and proportion to his interest. Such is the sentiment of Grotius, and he refers, in support of it, to several institutions among the ancient states.

Those authors who have written more particularly on the subject of political institutions have, many of them, maintained similar sentiments. Not, indeed, that every man's power should be in exact proportion to his property, but that, in a general sense, and in a general form, property, as such, should have its weight and influence in political arrangement. Montesquieu speaks with approbation of the early Roman regulation, made by Servius Tullius, by which the people were distributed into classes, according to their property, and the public burdens apportioned to each individual according to the degree of power which he possessed in the government. By this regulation, he observes, some bore with the greatness of their tax because of their proportionable participation in power and credit; others consoled themselves for the smallness of their power and credit by the smallness of their tax. One of the most ingenious of political writers is Mr. Harrington, an author not now read so much as he deserves. It is his leading object, in his Oceana, to prove, that power *naturally* and *necessarily* follows property. He maintains that a government founded on property is legitimately founded; and that a government founded on the disregard of property is founded in injustice, and can only be maintained by military force. "If one man," says he, "be sole landlord, like the Grand Seignior, his empire is absolute. If a few possess the land, this makes the Gothic or feudal constitution. If the *whole people* be landlords, then is it a commonwealth." "It is strange," says an ingenious person in the last century, "that Harrington should be the first man to find out so evident and demonstrable a truth as that of property being the true basis and *measure* of power."* In truth, he was not the first. The idea is as old as political science itself. It may be found in Aristotle, Lord Bacon, Sir Walter Raleigh, and other writers. Harrington seems, however, to be the first writer who has illustrated and expanded the principle, and given to it the

* Spence's Anecdotes of Books and Men, p. 75.

effect and prominence which justly belong to it. To this sentiment, Sir, I entirely agree. It seems to me to be plain, that, in the absence of military force, political power naturally and necessarily goes into the hands which hold the property. In my judgment, therefore, a republican form of government rests, not more on political constitutions, than on those laws which regulate the descent and transmission of property.

If the nature of our institutions be to found government on property, and that it should look to those who hold property for its protection, it is entirely just that property should have its due weight and consideration in political arrangements. Life and personal liberty are no doubt to be protected by law; but property is also to be protected by law, and is the fund out of which the means for protecting life and liberty are usually furnished. We have no experience that teaches us that any other rights are safe where property is not safe. Confiscation and plunder are generally, in revolutionary commotions, not far before banishment, imprisonment, and death. It would be monstrous to give even the name of government to any association in which the rights of property should not be completely secured. The disastrous revolutions which the world has witnessed, those political thunder-storms and earthquakes which have shaken the pillars of society to their very deepest foundations, have been revolutions against property. Since the honorable member from Quincy* has alluded on this occasion to the history of the ancient states, it would be presumption in me to dwell upon it. It may be truly said, however, I think, that Rome herself is an example of the mischievous influence of the popular power when disconnected with property and in a corrupt age. It is true the arm of Cæsar prostrated her liberty; but Cæsar found his support within her very walls. Those who were profligate and necessitous, and factious and desperate, and capable, therefore, of being influenced by bribes and largesses, which were distributed with the utmost prodigality, outnumbered and outvoted, in the tribes and centuries, the substantial, sober, prudent, and faithful citizens. Property was in the hands of one description of men, and power in those of another; and the balance of the constitution was destroyed. Let it never be

* President Adams.

forgotten that it was the popular magistrates, elevated to office where the bad outnumbered the good, — where those who had not a stake in the commonwealth, by clamor and noise and numbers, drowned the voice of those who had, — that laid the neck of Rome at the feet of her conqueror. When Cæsar, manifesting a disposition to march his army against the capital, approached that little stream which has become so memorable from its association with his history, a decree was proposed in the Senate declaring him a public enemy if he did not disband his troops. To this decree the popular tribunes, the sworn protectors of the people, interposed their negative; and thus opened the high road to Rome, and the gates of the city herself, to the approach of her conqueror.

The English Revolution of 1688 was a revolution in favor of property, as well as of other rights. It was brought about by the men of property for their security; and our own immortal Revolution was undertaken, not to shake or plunder property, but to protect it. The acts of which the country complained were such as violated rights of property. An immense majority of all those who had an interest in the soil were in favor of the Revolution; and they carried it through, looking to its results for the security of their possessions. It was the property of the frugal yeomanry of New England, hard earned, but freely given, that enabled her to act her proper part and perform her full duty in achieving the independence of the country.

I would not be thought, Mr. Chairman, to be among those who underrate the value of military service. My heart beats, I trust, as responsive as any one's, to a soldier's claim for honor and renown. It has ever been my opinion, however, that while celebrating the military achievements of our countrymen in the Revolutionary contest, we have not always done equal justice to the merits and the sufferings of those who sustained, on their property, and on their means of subsistence, the great burden of the war. Any one, who has had occasion to be acquainted with the records of the New England towns, knows well how to estimate those merits and those sufferings. Nobler records of patriotism exist nowhere. Nowhere can there be found higher proofs of a spirit that was ready to hazard all, to pledge all, to sacrifice all, in the cause of the country. Instances were not infrequent, in which small freeholders parted with their last hoof, and the

last measure of corn from their granaries, to supply provisions for the troops, and hire service for the ranks. The voice of Otis and of Adams in Faneuil Hall found its full and true echo in the little councils of the interior towns; and if within the Continental Congress patriotism shone more conspicuously, it did not there exist more truly, nor burn more fervently; it did not render the day more anxious, or the night more sleepless; it sent up no more ardent prayer to God, for succor; and it put forth in no greater degree the fulness of its effort, and the energy of its whole soul and spirit, in the common cause, than it did in the small assemblies of the towns. I cannot, therefore, Sir, agree that it is in favor of society, or in favor of the people, to constitute government with an entire disregard to those who bear the public burdens in times of great exigency. This question has been argued, as if it were proposed only to give an advantage to a few rich men. I do not so understand it. I consider it as giving property, generally, a representation in the Senate, both because it is just that it should have such representation, and because it is a convenient mode of providing that *check* which the constitution of the legislature requires. I do not say that such check might not be found in some other provision; but this is the provision already established, and it is, in my opinion, a just and proper one.

I will beg leave to ask, Sir, whether property may not be said to deserve this portion of respect and power in the government? It pays, at this moment, I think, five sixths of all the public taxes; one sixth only being raised on persons. Not only, Sir, do these taxes support those burdens which all governments require, but we have, in New England, from early times held property to be subject to another great public use; I mean the support of schools. Sir, property, and the power which the law exercises over it for the purpose of instruction, are the basis of the system. It is entitled to the respect and protection of government, because, in a very vital respect, it aids and sustains government. The honorable member from Worcester, in contending for the admission of the mere popular principle in all branches of the government, told us, that our system rested on the intelligence of the community. He told us truly. But allow me, Sir, to ask the honorable gentleman, what, but property, supplies the means of that intelli-

gence? What living fountain feeds this ever-flowing, ever-refreshing, ever-fertilizing stream of public instruction and general intelligence? If we take away from the towns the power of assessing taxes on property, will the school-houses remain open? If we deny to the poor the benefit which they now derive from the property of the rich, will their children remain on their forms, or will they not, rather, be in the streets, in idleness and in vice?

I might ask again, Sir, how is it with religious instruction? Do not the towns and parishes raise money by vote of the majority, assessed on property, for the maintenance of religious worship? Are not the poor as well as the rich benefited by the means of attending on public worship, and do they not equally with the rich possess a voice and vote in the choice of the minister, and in all other parish concerns? Does any man, Sir, wish to try the experiment of striking out of the constitution the regard which it has hitherto maintained for property, and of foregoing also the extraordinary benefit which society among us for near two centuries has derived from laying the burden of religious and literary instruction of all classes upon property? Does any man wish to see those only worshipping God who are able to build churches and maintain ministers for themselves, and those children only educated whose parents possess the means of educating them? Sir, it is as unwise as it is unjust to make property an object of jealousy. Instead of being, in any just sense, a popular course, such a course would be most injurious and destructive to the best interests of the people. The nature of our laws sufficiently secures us against any dangerous accumulations; and, used and diffused as we have it, the whole operation of property is in the highest degree useful, both to the rich and to the poor. I rejoice, Sir, that every man in this community may call all property his own, so far as he has occasion for it, to furnish for himself and his children the blessings of religious instruction and the elements of knowledge. This heavenly and this earthly light he is entitled to by the fundamental laws. It is every poor man's undoubted birthright, it is the great blessing which this constitution has secured to him, it is his solace in life, and it may well be his consolation in death, that his country stands pledged, by the faith which it has plighted to all its citizens, to protect his children from ignorance, barbarism, and vice

I will now proceed to ask, Sir, whether we have not seen, and whether we do not at this moment see, the advantage and benefit of giving security to property, by this and all other reasonable and just provisions. The constitution has stood on its present basis forty years. Let me ask, What State has been more distinguished for wise and wholesome legislation? I speak, Sir, without the partiality of a native, and also without intending the compliment of a stranger; and I ask, What example have we had of better legislation? No violent measures affecting property have been attempted. Stop laws, suspension laws, tender laws, all the tribe of these arbitrary and tyrannical interferences between creditor and debtor, which, wheresoever practised, generally end in the ruin of both, are strangers to our statute-book. An upright and intelligent judiciary has come in aid of wholesome legislation; and general security for public and private rights has been the result. I do not say that this is peculiar, I do not say that others have not done as well. It is enough that, in these respects, we shall be satisfied that we are not behind our neighbors. No doubt, Sir, there are benefits of every kind, and of great value, in an organization of government, both in legislative and judicial administration, which well secures the rights of property; and we should find it so, by unfortunate experience, should that character be lost. There are millions of personal property now in this Commonwealth which are easily transferable, and would be instantly transferred elsewhere, if any doubt existed of its entire security. I do not know how much of this stability of government, and of the general respect for it, may be fairly imputed to this particular mode of organizing the Senate. It has, no doubt, had some effect. It indicates a respect for the rights of property, and may have operated on opinion as well as upon measures. Now to strike out and obliterate it, as it seems to me, would be in a high degree unwise and improper.

As to the *right* of apportioning senators upon this principle, I do not understand how there can be a question about it. All government is a modification of general principles and general truths, with a view to practical utility. Personal liberty, for instance, is a clear right, and is to be provided for; but it is not a clearer right than the right of property, though it may be more important. It is, therefore, entitled to protection. But property

is also to be protected; and when it is remembered how great a portion of the people of this State possess property, I cannot understand how its protection or its influence is hostile to their rights and privileges. For these reasons, Sir, I am in favor of maintaining that check, in the constitution of the legislature, which has so long existed there.

I understand the gentleman from Worcester* to be in favor of a check, but it seems to me he would place it in the wrong house. Besides, the sort of check he proposes appears to me to be of a novel nature, as a balance in government. He proposes to choose the senators according to the number of inhabitants; and to choose representatives, not according to that number, but in proportions greatly unequal in the town corporations. It has been stated to result from computation, and I do not understand it to be denied, that, on his system, a majority of the representatives will be chosen by towns not containing one third part of the whole population of the State. I would beg to ask, Sir, on what principle this can stand; especially in the judgment of those who regard population as the only just basis of representation. But, Sir, I have a preliminary objection to this system; which is, that it reverses all our common notions, and constitutes the popular house upon anti-popular principles. We are to have a popular Senate of thirty-six members, and we are to place the check of the system in a House of Representatives of two hundred and fifty members! All money bills are to originate in the House, yet the House is not to be the popular branch. It is to exceed the Senate, seven or eight to one, in point of numbers, yet the Senate is to be chosen on the popular principle, and the House on some other principle.

It is necessary here, Sir, to consider the manner of electing representatives in this Commonwealth, as heretofore practised, the necessity which exists of reducing the present number of representatives, and the propositions which have been submitted for that purpose. Representation by towns or townships (as they might have been originally more properly called) is peculiar to New England. It has existed, however, since the first settlement of the country. These local districts are so small, and of such unequal population, that if every town is to have one rep-

* Mr. Lincoln.

resentative, and larger towns as many more as their population, compared with the smallest town, would numerically entitle them to, a very numerous body must be the consequence, in any large State. Five hundred members, I understand, may now be constitutionally elected to the House of Representatives; the very statement of which number shows the necessity of reduction. I agree, Sir, that this is a very difficult subject. Here are three hundred towns all possessing the right of representation; and representation by towns is an ancient habit of the people. For one, I am disposed to preserve this mode, so far as may be practicable. There is always an advantage in making the revisions of the fundamental law, which circumstances may render necessary, in a manner which does no violence to ancient habits and established rules. I prefer, therefore, a representation by towns, even though it should necessarily be somewhat numerous, to a division of the State into new districts, the parts of which might have little natural connection or little actual intercourse with one another. But I ground my opinion in this respect on fitness and expediency, and the sentiments of the people; not on absolute right. The town corporations, simply as such, cannot be said to have any right to representation; except so far as the constitution creates such right. And this I apprehend to be the fallacy of the argument of the honorable member from Worcester. He contends, that the smallest town has a right to its representative. This is true; but the largest town (Boston) has a right also to fifty. These rights are precisely equal. They stand on the same ground, that is, on the provisions of the existing constitution. The honorable member thinks it quite just to reduce the right of the large town from fifty to ten, and yet that there is no power to affect the right of the small town, either by uniting it with another small town for the choice of a representative, or otherwise. I do not assent to that opinion. If it be right to take away half or three fourths of the representation of the large towns, it cannot be right to leave that of the small towns undiminished. The report of the committee proposes that these small towns shall elect a member every other year, half of them sending one year, and half the next; or else that two small towns shall unite and send one member every year. There is something apparently irregular nd anomalous in sending a member every other year, yet, per-

haps, it is no great departure from former habits; because these small towns, being by the present constitution compelled to pay their own members, have not ordinarily sent them oftener, on the average, than once in two years.

The honorable member from Worcester founds his argument on the right of town corporations, as such, to be represented in the legislature. If he only mean that right which the constitution at present secures, his observation is true, while the constitution remains unaltered. But if he intend to say that such right exists prior to the constitution, and independent of it, I ask, Whence is it derived? Representation of the people has heretofore been by towns, because such a mode has been thought convenient. Still it has been the representation of the people. It is no corporate right, to partake in the sovereign power and form part of the legislature. To establish this right, as a corporate right, the gentleman has enumerated the duties of the town corporation; such as the maintenance of public worship, public schools, and public highways; and insists that the performance of these duties gives the town a right to a representative in the legislature. But I would ask, Sir, what possible ground there is for this argument. The burden of these duties falls not on any corporate funds belonging to the towns, but on the people, under assessments made on them individually, in their town meetings. As distinct from their individual inhabitants, the towns have no interest in these affairs. These duties are imposed by general laws; they are to be performed by the people, and if the people are represented in the making of these laws, the object is answered, whether they should be represented in one mode or another.

But, farther, Sir, are these municipal duties rendered to the State, or are they not rather performed by the people of the towns for their own benefit? The general treasury derives no supplies from all these contributions. If the towns maintain religious instruction, it is for the benefit of their own inhabitants; if they support schools, it is for the education of the children of their inhabitants; and if they maintain roads and bridges, it is also for their own convenience. And therefore, Sir, although I repeat that for reasons of expediency I am in favor of maintaining town representation, as far as it can be done with a proper regard to equality of representation, I entirely disagree to the

notion, that every town has a right, which an alteration of the constitution cannot divest, if the general good require such alteration, to have a representative in the legislature.

The honorable member has declared that we are about to disfranchise corporations, and destroy chartered rights. He pronounces this system of representation an outrage, and declares that we are forging chains and fetters for the people of Massachusetts. "Chains and fetters!" This convention of delegates, chosen by the people within this month, and going back to the people, divested of all power, within another month, yet occupying their span of time here, in forging chains and fetters for themselves and their constituents! "Chains and fetters!" A popular assembly of four hundred men combining to fabricate these manacles for the people, and nobody but the honorable member from Worcester with sagacity enough to detect the horrible conspiracy, or honesty enough to disclose it! "Chains and fetters!" An assembly most variously composed, — men of all professions and all parties, of different ages, habits, and associations, — all freely and recently chosen by their towns and districts; yet this assembly, in one short month, contriving to fetter and enslave itself and its constituents! Sir, there are some things too extravagant for the ornament and decoration of oratory; some things too excessive, even for the fictions of poetry; and I am persuaded that a little reflection would satisfy the honorable member, that, when he speaks of this assembly as committing outrages on the rights of the people, and as forging chains and fetters for their subjugation, he does as great injustice to his own character as a correct and manly debater, as he does to the motives and the intelligence of this body.

I do not doubt, Sir, that some inequality exists, in the mode of representatives proposed by the committee. A precise and exact equality is not attainable, in any mode. Look to the gentleman's own proposition. By that, Essex, with twenty thousand inhabitants more than Worcester, would have twenty representatives less. Suffolk, which, according to numbers, would be entitled to twenty, would have, if I mistake not, eight or nine only. Whatever else, Sir, this proposition may be a specimen of, it is hardly a specimen of equality. As to the House of Representatives, my view of the subject is this. Under the present constitution,

the towns have all a right to send representatives to the legislature, in a certain fixed proportion to their numbers. It has been found that the full exercise of this right fills the House of Representatives with too numerous a body. What, then, is to be done? Why, Sir, the delegates of the towns are here assembled, to agree, mutually, on some reasonable mode of reduction. Now, Sir, it is not for one party to stand sternly on its right, and demand all the concession from another. As to right, all are equal. The right which Hull possesses to send one, is the same as the right of Boston to send fifty. Mutual concession and accommodation, therefore, can alone accomplish the purpose of our meeting. If Boston consents, instead of fifty, to send but twelve or fifteen, the small towns must consent, either to be united, in the choice of their representatives, with other small towns, or to send a representative less frequently than every year; or to have an option to do one or the other of these, hereafter, as shall be found most convenient. This is what the report of the committee proposes, and, as far as we have yet learned, a great majority of the delegates from small towns approve the plan. I am willing, therefore, to vote for this part of the report of the committee; thinking it as just and fair a representation, and as much reduced in point of numbers, as can be reasonably hoped for, without giving up entirely the system of representation by towns. It is to be considered also, that, according to the report of the committee, the pay of the members is to be out of the public treasury. Every body must see how this will operate on the large towns. Boston, for example, with its twelve or fourteen members, will pay for fifty. Be it so; it is incident to its property, and not at all an injustice, if proper weight be given to that property, and proper provision be made for its security.

To recur, again, to the subject of the Senate. There is one remark, made by gentlemen on the other side, of which I wish to take notice. It is said, that, if the principle of representation in the Senate by property be correct, it ought to be carried through; whereas, it is limited and restrained by a provision that no district shall be entitled to more than six Senators. But this is a prohibition on the making of great districts, generally; not merely a limitation of the effect of the property principle. It prevents great districts from being made where

the valuation is small, as well as where it is large. Were it not for this, or some similar prohibition, Worcester and Hampshire might have been joined, under the present constitution, and have sent, perhaps, ten or twelve Senators. The limitation is a general one, introduced for general purposes; and if in a particular instance it bears hard on any county, this should be regarded as an evil incident to a good and salutary rule, and ought to be, as I doubt not it will be, quietly borne.

I forbear, Mr. Chairman, to take notice of many minor objections to the report of the committee. The defence of that report, especially in its details, properly belongs to other and abler hands. My purpose in addressing you was, simply, to consider the propriety of providing in one branch of the legislature a real check upon the other. And as I look upon that principle to be of the highest practical importance, and as it has seemed to me that the doctrines contended for would go to subvert it, I hope I may be pardoned for detaining the committee so long

INDEPENDENCE OF THE JUDICIARY.*

Regrets are vain for what is past; yet I hardly know how it has been thought to be a regular course of proceeding to go into committee on this subject, before taking up the several propositions which now await their final readings on the president's table. The consequence is, that this question comes on by surprise. The chairman of the select committee is not present; many of the most distinguished members of the convention are personally so situated as not to be willing to take part in the debate, and the first law officer of the government, a member of the committee, happens at this moment to be in a place (the chair of the committee of the whole) which deprives us of the benefit of his observations. Under these circumstances, I had hoped the committee would rise. It has, however, been determined otherwise, and I must therefore beg their indulgence while I make a few observations.

As the constitution now stands, all judges are liable to be removed from office by the governor, with the consent of the council, on the address of the two houses of the legislature. It is not made necessary that the two houses should give any reasons for their address, or that the judge should have an opportunity to be heard. I look upon this as against common right, as well as repugnant to the general principles of the government. The commission of the judge purports to be, on the face of it, during good behavior. He has an interest in his office. To give an authority to the legislature to deprive him of it, without trial or accusation, is manifestly to make the judges dependent on the legislature.

* Remarks made on the 30th of December, 1820, in the Convention, upon a Resolution to make Judicial Officers removable by the Governor and Council upon the Address of two thirds (instead of a majority) of each Branch of the Legislature

The question is not what the legislature probably will do, but what they may do. If the judges, in fact, hold their offices only so long as the legislature see fit, then it is vain and illusory to say that the judges are independent men, incapable of being influenced by hope or by fear. The tenure of their office is not independent. The general theory and principle of the government are broken in upon, by giving the legislature this power. The departments of government are not equal, coördinate, and independent, while one is thus at the mercy of the others. What would be said of a proposition to authorize the governor or judges to remove a senator or member of the House of Representatives from office? And yet, the general theory of the constitution is to make the judges as independent as members of the legislature.

I know not whether a greater improvement has been made in government than to separate the judiciary from the executive and legislative branches, and to provide for the decision of private rights in a manner wholly uninfluenced by reasons of state, or considerations of party or of policy. It is the glory of the British constitution to have led in the establishment of this most important principle. It did not exist in England before the Revolution of 1688, and its introduction has seemed to give a new character to the tribunals. It is not necessary to state the evils which had been experienced in that country from dependent and timeserving judges. In matters of mere property, in causes of no political or public bearing, they might perhaps be safely trusted; but in great questions concerning public liberty or the rights of the subject, they were, in too many cases, not fit to be trusted at all. Who would now quote Scroggs, or Saunders, or Jeffreys, on a question concerning the right of the habeas corpus, or the right of suffrage, or the liberty of the press, or any other subject closely connected with political freedom? Yet on all these subjects the sentiments of the English judges since the Revolution, of Somers, Holt, Ireby, Jekyl, and others like them, are, in general, favorable to civil liberty, and receive and deserve great attention whenever referred to. Indeed, Massachusetts herself knows, by her own history, what is to be expected from dependent judges. Her own charter was declared forfeited, without a hearing, in a court where such judges sat.

When Charles the Second, and his brother after him, attempted the destruction of chartered rights, both in the kingdom

and out of it, the mode was by judgments obtained in the courts. It is well known, that after the prosecution against the city of London was commenced, and while it was pending, the judges were changed; and Saunders, who had been consulted on the occasion, and had advised the proceeding on the part of the crown, was made chief justice for the very purpose of giving a judgment in favor of the crown; his predecessor being removed to make room for him. But since the Revolution of 1688, an entire new character in this respect has been given to English judicature. The judges have been made independent, and the benefit has been widely and deeply felt. A similar improvement seems to have made its way into Scotland. Before the union of the kingdoms, it cannot be said that there was any judicial independence in Scotland; and the highest names in Scottish jurisprudence have been charged with being under influences which could not, in modern times, be endured. It is even said, that the practice of entails did not extensively exist in Scotland till about the time of the reigns of the last princes of the Stuart race, and that it was then introduced to guard against unjust forfeitures. It is strange, indeed, that this should happen at so late a period, and that a most unnatural and artificial state of property should be owing to the fear of dependent judicatures. I might add here, that the heritable jurisdictions, the greatest almost of all evils connected with the administration of justice, were not abolished in Scotland till about the middle of the last century; so slowly does improvement make progress when opposed by ignorance, prejudice, or interest.

In our own country, it was for years a topic of complaint, before the Revolution, that justice was administered, in some of the Colonies, by judges dependent on the British crown. The Declaration of Independence itself puts forth this as a prominent grievance, among those which justified the Revolution. The British king, it declares, "had made judges dependent on his own will alone, for the tenure of their offices." It was therefore to be expected, that, in establishing their own governments, this important point of the independence of the judicial power would be regarded by the States. Some of them have made greater and others less provision on this subject; the more recent constitutions, I believe, being generally framed with the best guards for judicial independence.

Those who oppose any additional security for the tenure of judicial office have pressed to know what evil has been experienced, what injury has arisen, from the constitution as it is. Perhaps none; but if evils probably may arise, the question is, whether the subject be not so important as to render it prudent to guard against that evil. If evil do arise, we may be sure it will be a great evil; if this power should happen to be abused, the consequences would be most mischievous. It is not a sufficient answer to say that we have as yet felt no inconvenience. We are bound to look to probable future events. We have, too, the experience of other States. Connecticut, having had judges appointed annually, from the time of Charles the Second, in the recent alteration of her constitution has provided, that hereafter they shall hold their office during good behavior, subject to removal on the address of two thirds of each house of the legislature. In Pennsylvania, the judges may be removed, "for any reasonable cause," on the address of two thirds of the two houses. In some of the States, three fourths of each house are required. The new constitution of Maine has a provision, with which I should be content; which is, that no judge shall be liable to be removed by the legislature till the matter of his accusation has been made known to him, and he has had an opportunity of being heard in his defence. This seems no more than common justice; and yet it is much greater than any security which at present exists in the constitution of this Commonwealth. It will be found, if I mistake not, that there are not more than two or three, out of all the States, which have left the tenure of judicial office at the entire pleasure of the legislature.

It cannot be denied, that one great object of written constitutions is to keep the departments of government as distinct as possible; and for this purpose to impose restraints designed to have that effect. And it is equally true, that there is no department on which it is more necessary to impose restraints than the legislature. The tendency of things is almost always to augment the power of that department, in its relation to the judiciary. The judiciary is composed of few persons, and those not such as mix habitually in the pursuits and objects which most engage public men. They are not, or never should be, political men. They have often unpleasant duties to perform.

and their conduct is often liable to be canvassed and censured, where their reasons for it are not known, or cannot be understood. The legislature holds the public purse. It fixes the compensation of all other departments; it applies, as well as raises, all revenue. It is a numerous body, and necessarily carries along with it a great force of public opinion. Its members are public men, in constant contact with one another, and with their constituents. It would seem to be plain enough, that, without constitutional provisions which should be fixed and certain, such a department, in case of excitement, would be able to encroach on the judiciary. Therefore is it, that a security of judicial independence becomes necessary; and the question is, whether that independence be at present sufficiently secured.

The constitution being the supreme law, it follows of course, that every act of the legislature, contrary to that law, must be void. But who shall decide this question? Shall the legislature itself decide it? If so, then the constitution ceases to be a legal, and becomes only a moral restraint on the legislature. If they, and they only, are to judge whether their acts be conformable to the constitution, then the constitution is admonitory or advisory only; not legally binding; because, if the construction of it rest wholly with them, their discretion, in particular cases, may be in favor of very erroneous and dangerous constructions. Hence the courts of law, necessarily, when the case arises, must decide upon the validity of particular acts. These cases are rare, at least in this Commonwealth; but they would probably be less so, if the character of the judiciary were less respectable than it is.

It is the theory and plan of the constitution to restrain the legislature, as well as other departments, and to subject their acts to judicial decision, whenever it appears that such acts infringe constitutional limits. Without this check, no certain limitation could exist on the exercise of legislative power. The constitution, for example, declares, that the legislature shall not suspend the benefit of the writ of habeas corpus, except under certain limitations. If a law should happen to be passed restraining personal liberty, and an individual, feeling oppressed by it, should apply for his habeas corpus, must not the judges decide what is the benefit of habeas corpus intended by the constitution, what it is to suspend it, and whether the acts of

the legislature do, in the given case, conform to the constitution? All these questions would of course arise. The judge is bound by his oath to decide according to law. The constitution is the supreme law. Any act of the legislature, therefore, inconsistent with that supreme law, must yield to it; and any judge, seeing this inconsistency, and yet giving effect to the law, would violate both his duty and his oath. But it is evident that this power, to be useful, must be lodged in independent hands. If the legislature may remove judges at pleasure, assigning no cause for such removal, of course it is not to be expected that they would often find decisions against the constitutionality of their own acts. If the legislature should, unhappily, be in a temper to do a violent thing, it would probably take care to see that the bench of justice was so constituted as to agree with it in opinion.

It is unpleasant to allude to other States for negative examples; yet, if any one were inclined to the inquiry, it might be found that cases had happened in which laws, known to be at best very questionable as to their consistency with the constitution, had been passed; and at the same session, effectual measures taken, under the power of removal by address, to create a new bench. Such a coincidence might be accidental; but the frequent happening of such accidents would destroy the balance of a free government. The history of all the States, I believe, shows the necessity of settled limits to legislative power. There are reasons, entirely consistent with upright and patriotic motives, which, nevertheless, evince the danger of legislative encroachments. The subject is fully treated by Mr. Madison, in some numbers of the Federalist, which well deserve the consideration of the convention.

There is nothing, after all, so important to individuals as the upright administration of justice. This comes home to every man; life, liberty, reputation, property, all depend on this. No government does its duty to the people, which does not make ample and stable provision for the exercise of this part of its powers. Nor is it enough, that there are courts which will deal justly with mere private questions. We look to the judicial tribunal for protection against illegal or unconstitutional acts, from whatever quarter they may proceed. The courts of law, independent judges, and enlightened juries, are citadels of popular

liberty, as well as temples of private justice. The most essential rights connected with political liberty are there canvassed, discussed, and maintained; and if it should at any time so happen that these rights should be invaded, there is no remedy but a reliance on the courts to protect and vindicate them. There is danger, also, that legislative bodies will sometimes pass laws interfering with other private rights than those connected with political liberty. Individuals are too apt to apply to the legislative power to interfere with private cases or private property; and such applications sometimes meet with favor and support. There would be no security, if these interferences were not subject to some subsequent constitutional revision, where all parties could be heard, and justice be administered according to the standing laws.

These considerations are among those which, in my opinion, render an independent judiciary equally essential to the preservation of private rights and public liberty. I lament the necessity of deciding this question at the present moment; and should hope, if such immediate decision were not demanded, that some modification of this report might prove acceptable to the committee, since, in my judgment, some provision beyond what exists in the present constitution is necessary.

SPEECHES IN CONGRESS.

BANK OF THE UNITED STATES.*

On the 2d of January, 1815, the bill to incorporate a bank being under consideration, Mr. Webster moved that it be recommitted to a select committee, with instructions to make the following alterations, to wit: —

1. To reduce the capital to twenty-five millions, with liberty to the government to subscribe on its own account five millions.

2. To strike out the thirteenth section.

3. To strike out so much of said bill as makes it obligatory on the bank to lend money to government.

4. To introduce a section providing, that if the bank do not commence its operations within the space of ——— months, from the day of the passing of the act, the charter shall thereby be forfeited.

5. To insert a section allowing interest at the rate of ——— *per cent.* on any bill or note of the bank, of which payment shall have been duly demanded, according to its tenor, and refused; and to inflict penalties on any directors who shall issue any bills or notes during any suspension of specie payment at the bank.

6. To provide that the said twenty-five millions of capital stock shall be composed of five millions of specie, and twenty millions of any of the stocks of the United States bearing an interest of six *per cent.*, or of treasury-notes.

7. To strike out of the bill that part of it which restrains the bank from selling its stock during the war.

In support of this motion the following speech was delivered. The motion did not prevail, but the bill itself was rejected the same day on the third reading. Some of the main principles of these instructions were incorporated into the charter of the late bank, when that charter was granted, the following year; especially those which were more

* A Speech delivered in the House of Representatives of the United States, on the 2d of January, 1815.

particularly designed to insure the payment of the notes of the bank in specie, at all times, on demand.

However the House may dispose of the motion before it, I do not regret that it has been made. One object intended by it, at least, is accomplished. It presents a choice, and it shows that the opposition which exists to the bill in its present state is not an undistinguishing hostility to whatever may be proposed as a national bank, but a hostility to an institution of such a useless and dangerous nature as it is believed the existing provisions of the bill would establish.

If the bill should be recommitted, and amended according to the instructions which I have moved, its principles would be materially changed. The capital of the proposed bank will be reduced from fifty to thirty millions, and will be composed of specie and stocks in nearly the same proportions as the capital of the former Bank of the United States. The obligation to lend thirty millions of dollars to government, an obligation which cannot be fulfilled without committing an act of bankruptcy, will be struck out. The power to suspend the payment of its notes and bills will be abolished, and the prompt and faithful execution of its contracts secured, as far as, from the nature of things, it can be secured. The restriction on the sale of its stocks will be removed, and as it is a monopoly, provision will be made that, if it should not commence its operations in a reasonable time, the grant shall be forfeited. Thus amended, the bill would establish an institution not unlike the last Bank of the United States in any particular which is deemed material, excepting only the legalized amount of capital.

To a bank of this nature I should at any time be willing to give my support, not as a measure of temporary policy or as an expedient for relief from the present poverty of the treasury, but as an institution of permanent interest and importance, useful to the government and country at all times, and most useful in times of commercial prosperity.

I am sure, Sir, that the advantages which would at present result from any bank are greatly overrated. To look to a bank, as a source capable, not only of affording a circulating medium to the country, but also of supplying the ways and means of carrying on the war, especially at a time when the country is

without commerce, is to expect much more than ever will be obtained. Such high-wrought hopes can end only in disappointment. The means of supporting an expensive war are not of quite so easy acquisition. Banks are not revenue. They cannot supply its place. They may afford facilities to its collection and distribution. They may furnish with convenience temporary loans to government, in anticipation of its taxes, and render important assistance, in divers ways, to the general operation of finance. They are useful to the state in their proper place and sphere, but they are not sources of national income.

The streams of revenue must flow from deeper fountains. The credit and circulation of bank paper are the effects rather than the causes of a profitable commerce and a well-ordered system of finance. They are the props of national wealth and prosperity, not the foundations of them. Whoever shall attempt to restore the fallen credit of this country by the establishment of new banks, merely that they may create new paper, and that government may have a chance of borrowing where it has not borrowed before, will find himself miserably deceived. It is under the influence of no such vain hopes that I yield my assent to the establishment of a bank on sound and proper principles. The principal good I expect from it is rather future than present. I do not see, indeed, that it is likely to produce evil at any time. In times to come it will, I hope, be useful. If it were only to be harmless, there would be sufficient reason why it should be supported in preference to such a contrivance as is now in contemplation.

The bank which will be created by the bill, if it should pass in its present form, is of a most extraordinary, and, as I think, alarming nature. The capital is to be fifty millions of dollars; five millions in gold and silver, twenty millions in the public debt created since the war, ten millions in treasury-notes, and fifteen millions to be subscribed by government in stock to be issued for that purpose. The ten millions in treasury-notes, when received in payment of subscriptions to the bank, are to be funded also in United States stocks. The stock subscribed by government on its own account, and the stocks in which the treasury-notes are to be funded, are to be redeemable only at the pleasure of the government. The war stock will be redeemable

according to the terms upon which the late loans have been negotiated.

The capital of the bank, then, will be five millions of specie and forty-five millions of government stocks. In other words, the bank will possess five millions of dollars and the government will owe it forty-five millions. The bank is restrained from selling this debt of government during the war, and government is excused from paying until it shall see fit. The bank is also to be under obligation to loan to government thirty millions of dollars on demand, to be repaid, not when the convenience or necessity of the bank may require, but when debts due to the bank from government are paid; that is, when it shall be the good pleasure of government. This sum of thirty millions is to supply the necessities of government, and to supersede the occasion of other loans. This loan will doubtless be made on the first day of the existence of the bank, because the public wants can admit of no delay. Its condition, then, will be, that it has five millions of specie, if it has been able to obtain so much, and a debt of seventy-five millions, no part of which it can either sell or call in, due to it from government.

The loan of thirty millions to government can only be made by an immediate issue of bills to that amount. If these bills should return, the bank will not be able to pay them. This is certain; and to remedy this inconvenience, power is given to the directors, by the act, to suspend, at their own discretion, the payment of their notes until the President of the United States shall otherwise order. The President will give no such order, because the necessities of government will compel it to draw on the bank till the bank becomes as necessitous as itself. Indeed, whatever orders may be given or withheld, it will be utterly impossible for the bank to pay its notes. No such thing is expected from it. The first note it issues will be dishonored on its return, and yet it will continue to pour out its paper so long as government can apply it in any degree to its purposes.

What sort of an institution, Sir, is this? It looks less like a bank than a department of government. It will be properly the paper-money department. Its capital is government debts; the amount of its issues will depend on government necessities; government, in effect, absolves itself from its own debts to the bank, and, by way of compensation, absolves the bank from its

own contracts with others. This is, indeed, a wonderful scheme of finance. The government is to grow rich, because it is to borrow without the obligation of repaying, and is to borrow of a bank which issues paper without liability to redeem it. If this bank, like other institutions which dull and plodding common sense has erected, were to pay its debts, it must have some limits to its issues of paper, and therefore there would be a point beyond which it could not make loans to government. This would fall short of the wishes of the contrivers of this system. They provide for an unlimited issue of paper in an entire exemption from payment. They found their bank, in the first place, on the discredit of government, and then hope to enrich government out of the insolvency of their bank. With them, poverty itself is the main source of supply, and bankruptcy a mine of inexhaustible treasure. They trust not in the ability of the bank, but in its beggary; not in gold and silver collected in its vaults, to pay its debts, and fulfil its promises, but in its locks and bars, provided by statute, to fasten its doors against the solicitations and clamors of importunate creditors. Such an institution, they flatter themselves, will not only be able to sustain itself, but to buoy up the sinking credit of the government. A bank which does not pay is to guarantee the engagements of a government which does not pay! "John Doe is to become security for Richard Roe." Thus the empty vaults of the treasury are to be filled from the equally empty vaults of the bank, and the ingenious invention of a partnership between insolvents is to restore and reëstablish the credit of both.

Sir, I can view this only as a system of rank speculation and enormous mischief. Nothing in our condition is worse, in my opinion, than the inclination of government to throw itself upon such desperate courses. If we are to be saved, it is not to be by such means. If public credit is to be restored, this is not one of the measures that will help to restore it. If the treasury is exhausted, this bank will not fill it with any thing valuable. If a safe circulating medium be wanted for the community, it will not be found in the paper of such a corporation.

I wish, Sir, that those who imagine that these objects, or any of them, will be effected by such a bank as this, would describe the manner in which they expect it to be done. What is the process which is to produce these results? If it is perceived, it

can be described. The bank will not operate either by miracle or magic. Whoever expects any good from it ought to be able to tell us in what way that good is to be produced. As yet, we have had nothing but general ideas and vague and loose expressions. An indefinite and indistinct notion is entertained, nobody here seems to know on what ground, that this bank is to reanimate public credit, fill the treasury, and remove all the evils that have arisen from the depreciation of the paper of the existing banks.

Some gentlemen, who do not profess themselves to be in all respects pleased with the provisions of the bill, seem to content themselves with an idea that nothing better can be obtained, and that it is necessary to do something. A strong impression that something must be done is the origin of many bad measures. It is easy, Sir, to do something, but the object is to do something useful. It is better to do nothing than to do mischief. It is much better, in my opinion, to make no bank, than to pass the bill as it now is.

The interests to be affected by this measure, the finances, the public credit, and the circulating medium of the country, are too important to be hazarded in schemes like these. If we wish to restore the public credit and to reëstablish the finances, we have the beaten road before us. All true analogy, all experience, and all just knowledge of ourselves and our condition, point one way. A wise and systematic economy, and a settled and substantial revenue, are the means to be relied on; not excessive issues of bank-notes, a forced circulation, and all the miserable contrivances to which political folly can resort, with the idle expectation of giving to mere paper the quality of money. These are all the inventions of a short-sighted policy, vexed and goaded by the necessities of the moment, and thinking less of a permanent remedy than of shifts and expedients to avoid the present distress. They have been a thousand times adopted, and a thousand times exploded as delusive and ruinous, as destructive of all solid revenue, and incompatible with the security of private property.

It is, Sir, sufficiently obvious, that, to produce any benefit, this bank must be so constructed as that its notes shall have credit with the public. The first inquiry, therefore, should be, whether the bills of a bank of this kind will not be immediately

and greatly depreciated. I think they will. It would be a wonder if they should not. This effect will be produced by that excessive issue of its paper which the bank must make in its loan to government. Whether its issues of paper are excessive will depend, not on the nominal amount of its capital, but on its ability to redeem it. This is the only safe criterion. Very special cases may perhaps furnish exceptions, but there is, in general, no security for the credit of paper, but the ability in those who emit to redeem it. Whenever bank-notes are not convertible into gold and silver at the will of the holder, they become of less value than gold and silver. All experiments on this subject have come to the same result. It is so clear, and has been so universally admitted, that it would be waste of time to dwell upon it. The depreciation may not be sensibly perceived the first day, or the first week, it takes place. It will first be discerned in what is called the rise of specie; it will next be seen in the increased price of all commodities. The circulating medium of a commercial community must be that which is also the circulating medium of other commercial communities, or must be capable of being converted into that medium without loss. It must be able, not only to pass in payments and receipts among individuals of the same society and nation, but to adjust and discharge the balance of exchanges between different nations. It must be something which has a value abroad, as well as at home, and by which foreign as well as domestic debts can be satisfied. The precious metals alone answer these purposes. They alone, therefore, are money, and whatever else is to perform the offices of money must be their representative, and capable of being turned into them at will. So long as bank paper retains this quality, it is a substitute for money; divested of this, nothing can give it that character. No solidity of funds, no sufficiency of assets, no confidence in the solvency of banking institutions, has ever enabled them to keep up their paper to the value of gold and silver any longer than they paid gold and silver for it, on demand. This will continue to be the case so long as those metals shall continue to be the standard of value and the general circulating medium among nations.

A striking illustration of this common principle is found in the early history of the Bank of England. In the year 1697, it had been so liberal of its loans, that it was compelled to sus-

pend the payment of its notes. Its paper immediately fell to a discount of near twenty per cent. Yet such was the public opinion of the solidity of its funds, that its stock then sold for one hundred and ten per cent., although no more than sixty per cent. upon the subscription had been paid in. The same fate, as is well known, attended the banks of Scotland, when they adopted the practice of inserting in their notes a clause, giving the banks an option of paying their notes on demand, or six months after demand, with interest. Paper of this sort was not convertible into specie, at the pleasure of the holder; and no conviction of the ability of the bank which issued it could preserve it from depreciation.

The suspension of specie payments by the Bank of England, in 1797, and the consequences which followed, afford no argument to overthrow this general experience. If Bank of England notes were not immediately depreciated on that occasion, depreciation, nevertheless, did ensue. Very favorable causes existed to prevent their sudden depression. It was an old and rich institution. It was known to be under the most discreet and independent management. Government had no control over it, to force it to make loans against its interest or its will. On the contrary, it compelled the government to pay, though with much inconvenience to itself, a very considerable sum which was due to it. The country enjoyed, at that time, an extensive commerce, and a revenue of three hundred millions of dollars was collected and distributed through the bank. Under all these advantages, however, the difference of price between bank-notes and coin became at one time so great, as to threaten the most dangerous consequences. Suppose the condition of England to have been reversed. Suppose that, instead of a prosperous and increasing commerce, she had suffered the ruin of her trade, and that the product of her manufactures had lain upon her hands, as the product of our agriculture now perishes in ours. Does any one imagine that her circulating paper could have existed and maintained any credit, in such a change of her condition? What ought to surprise us is, not that her bank paper was depreciated, but that it was not depreciated sooner and lower than in fact it was. The reason can only be found in that extraordinary combination of favorable circumstances, which never existed before, and is hardly to be expected again. Much less is it to be discovered in our condition at present.

But we have experience nearer home. The paper of all the banks south of New England has become depreciated to an alarming extent. This cannot be denied. The idea that this depreciation exists only at a distance from the banks respectively is unfounded and absurd. It exists everywhere. The rates of exchange, both foreign and domestic, put this point beyond controversy. If a bill of exchange on Europe can be purchased, as it may, twenty per cent. cheaper in Boston than in Baltimore, the reason must be that it is paid for in Boston in money, and in Baltimore in something twenty per cent. less valuable than money. Notwithstanding the depression of their paper, it is not probable that any doubt is entertained of the sufficiency of the funds of the principal banks. Certainly no such doubt is the cause of the fall of their paper; because the depression of the paper of all the banks in any place is, as far as I learn, generally uniform and equal; whereas, if public opinion proceeded at all upon the adequacy or inadequacy of their funds, it would necessarily come to different results in different cases, as some of these institutions must be supposed to be richer than others.

Sir, something must be discovered which has hitherto escaped the observation of mankind, before you can give to paper intended for circulation the value of a metallic currency, any longer than it represents that currency, and is convertible into it, at the will of the holder. The paper of this bank, if you make it, will be depreciated, for the same reason that the paper of other banks that have gone before it, and of those which now exist around us, has been depreciated, because it is not to pay specie for its notes. Other institutions, setting out perhaps on honest principles, have fallen into discredit, through mismanagement or misfortune. But this bank is to begin with insolvency. It is to issue its bills to the amount of thirty millions, when every body knows it cannot pay them. It is to commence its existence in dishonor. It is to draw its first breath in disgrace. The promise contained in the first note it sends forth is to be a false promise, and whoever receives the note is to take it with the knowledge that it is not to be paid according to the terms of it.

But this, Sir, is not all. The framers of this bill have not done their work by halves. They have put the depreciation of the notes of their bank beyond all doubt or uncertainty. They

have made assurance doubly sure. In addition to excessive issues of paper, and the failure to make payments, both which they provide for by law, they make the capital of the bank to consist principally of public stock. If this stock should be sold as in the former Bank of the United States, the evil would be less. But the bank has not the power to sell it, and, for all purposes of enabling it to fulfil its engagements, its funds might as well be at the bottom of the ocean as in government stocks, of which it cannot enforce payment, and of which it cannot dispose. The credit of this institution is to be founded on public funds, not on private property or commercial credit. It is to be a financial, not a commercial bank. Its credit can hardly, therefore, be better at any time than the credit of the government. If the stocks be depreciated, so of course must every thing be which rests on the stocks. It would require extraordinary ingenuity to show how a bank, which is founded on the public debt, is to have any better reputation than the debt itself. It must be some very novel invention which makes the superstructure keep its place after the foundation has fallen. The argument seems to stand thus. The public funds, it is admitted, have little credit; the bank will have no credit which it does not borrow of the funds; but the bank will be in full credit.

If, Sir, we were in a temper to learn wisdom from experience, the history of most of the banks on the continent of Europe might teach us the futility of all these contrivances. Those institutions, like this before us, were established for purposes of finance, not purposes of commerce. The same fortune has happened to them all. Their credit has sunk. Their respective governments go to them for money when they can get it nowhere else; and the banks can relieve their wants only by new issues of their own paper. As this is not redeemed, the invariable consequence of depreciation follows; and this has sometimes led to the miserable and destructive expedient of depreciation of the coin itself. Such are the banks of Petersburg, Copenhagen, Vienna, and other cities of Europe; and while the paper of these government banks has been thus depressed, that of other banks existing in their neighborhood, unconnected with government, and conducting their business on the basis of commercial credit, has retained a value equivalent to that of coin.

Excessive issues of paper, and a close connection with govern-

ment, are the circumstances which of all others are the most certain to destroy the credit of bank paper. If there were no excessive issues, or, in other words, if the bank paid its notes in specie on demand, its connection with government and its interest in the funds would not, perhaps, materially affect the circulation of its paper, although they would naturally diminish the value of its stock. But when these two circumstances exist in the condition of any bank, that it does not pay its notes, and that its funds are in public stocks, and all its operations intimately blended with the operations of government, nothing further need be known, to be quite sure that its paper will not answer the purpose of a creditable circulating medium.

I look upon it, therefore, Sir, as certain, that a very considerable discount will attach itself to the notes of this bank the first day of their appearance; that this discount will continue to increase; and unless Congress should be able to furnish some remedy which is not certain, the paper, in the end, will be worth nothing. If this happens, not only will no one of the benefits proposed be obtained, but evils of the most alarming magnitude will follow. All the horrors of a paper-money system are before us. If we venture on the present expedient, we shall hardly be able to avoid them. The ruin of public affairs and the wreck of private property will ensue.

I would ask, Sir, whether the friends of this measure have well considered what effect it will produce on the revenue of the country? By the provisions of this bill, the notes of this bank are to be received in payment of all taxes and other dues to government. They cannot be refused on account of the depreciation of their value. Government binds itself to receive them at par, although it should be obliged immediately to pay them out at a discount of a hundred per cent. It is certain, then, that a loss in the revenue will be sustained, equal to any depreciation which may take place in this paper; and when the paper shall come to nothing, the revenue of the country will come to nothing along with it. This has happened to other countries where this wretched system has been adopted, and it will happen here. The Austrian government resorted to a similar experiment in a very critical period of its affairs, in 1809, the year of the last campaign between that country and France previous to the coalition. Pressed by the necessities of the occasion, the gov-

ernment caused a large quantity of paper to be issued, which was to be received in imposts and taxes. The paper immediately fell to a depreciation of four for one. The consequence was, that the government lost its revenue, and with it the means of supplying its armies and defending its empire. Is this government now ready, Sir, to put its resources all at hazard, by pursuing a similar course? Is it ready to sacrifice its whole substantial revenue and permanent supplies to an ill-contrived, ill-considered, dangerous, and ruinous project, adopted only as the means of obtaining a little present and momentary relief?

It ought to be considered, also, what effects this bank will produce on other banking institutions already existing, and on the paper which they have issued. The aggregate capital of these institutions is large. The amount of their notes is large, and these notes constitute, at present, in a great portion of the country, the only circulating medium, if they can be called a circulating medium. Whatever affects this paper, either to raise it or depress it lower than it is, affects the interests of every man in the community. It is sufficient on this point to refer to the memorial from the banks of New York. That assures us, that the operation of such a bank as this bill would establish must be to increase the difficulties and distress which the existing banks now experience, and to render it nearly impossible for them to resume the payment of their notes. This is what every man would naturally expect. Paper already depreciated will necessarily be sunk still lower, when another flood of depreciated paper is forced into circulation.

Very recently this government refused to extend the charter of the Bank of the United States, upon the ground that it was unconstitutional for Congress to create banks. Many of the State banks owe their existence to this decision. It was an invitation to the States to incorporate as much banking capital as would answer all the purposes of the country. Notwithstanding what we may now see and hear, it would then have been deemed a gross imputation on the consistency of government, if any man had expressed an expectation, that in five years all these constitutional scruples would be forgotten, all the dangers to political liberty from moneyed institutions disregarded, and a bank proposed upon the most extraordinary principles, with an

unprecedented amount of capital, and with no obligation to fulfil its contracts. The State banks have not forced themselves in the way of government. They were established, many of them at least, when government had declared its purpose to have no bank of its own. They deserve some regard on their own account, and on account of those particularly concerned in them. But they deserve much more consideration, or account of the quantity of paper which is in circulation, and the interest which the whole community has in it.

Let it also be recollected, Sir, that the present condition of the banks is principally owing to their advances to government. The treasury has borrowed of the banks, or of those who themselves borrowed of the banks, till the banks have become as poor, and almost as much discredited, as the treasury itself. They have depreciated their paper, nearly ruined themselves, and brought the sorest distress on the country, by doing that on a small scale which this bank is to perform on a scale vastly larger. It is almost unpardonable in the conductors of these institutions, not to have foreseen the consequences which have resulted from the course pursued by them. They were all plain and visible. If they have any apology, it is that they were no blinder than the government, and that they yielded to those who would take no denial. It will be altogether unpardonable in us, if, with this as well as all other experience before us, we continue to pursue a system which must inevitably lead us through depreciation of currency, paper-money, tender-laws, and all the contemptible and miserable contrivances of disordered finance and national insolvency, to complete and entire bankruptcy in the end.

I hope the House will recommit the bill for amendment.

THE LEGAL CURRENCY.*

A BILL reported by Mr. Calhoun for the restoration of the currency was rejected in the House of Representatives on the 25th of April, 1816. On the 26th, Mr. Webster introduced three resolutions having the same object in view; and in support of them made the following speech. The first two, being declaratory of principles only, were withdrawn at the request of several gentlemen, who were in favor of the third resolution, which contained Mr. Webster's plan for restoring the currency.

It provided that the Secretary of the Treasury should adopt such measures as he might deem necessary, to cause, as soon as might be, all sums of money due to the United States "to be collected and paid in the legal currency of the United States, or treasury-notes, or notes of the Bank of the United States, as by law provided and declared, or in notes of banks which are payable and paid on demand, in the said legal currency of the United States"; and it directed that, after the 20th of February next ensuing, nothing else should be received in payment of the public dues.

This resolution was received with great favor by the House, and passed through all the stages of legislation on the same day (the 26th of April) by a majority of more than two thirds. It was approved by President Madison on the 30th, and was completely successful in restoring a sound currency.

MR. SPEAKER, — I have felt it to be my duty to call the attention of the House once more to the subject of the collection of the revenue, and to present the resolutions which are

* A Speech delivered in the House of Representatives of the United States, on the 26th of April, 1816, on the Collection of the Revenue in the Legal Currency of the Country.

now submitted. I have been the more inclined to do this from an apprehension that the rejection, yesterday, of the bill which had been introduced, may be construed into an abandonment, on the part of the House, of all hope of remedying the existing evil. I have had, it is true, some objections against proceeding by way of bill; because the case is not one in which the law is deficient, but one in which the execution of the law is deficient. The great object, however, is to obtain a decision of this and the other house, that the present mode of receiving the revenue shall not be continued; and as this might be substantially effected by the bill, I had hoped that it might pass. This hope has been disappointed. The bill has been rejected. The House has put its negative upon the only proposition which has been submitted to it, for correcting a state of things which every body knows to exist in plain violation of the Constitution, and in open defiance of the written letter of the law. For one, I can never consent to adjourn, leaving this implied sanction of the House upon all that has taken place, and all that may hereafter take place. I hope not to hear again that there is not now time to act on this question. If other gentlemen consider the question as important as I do, they will not forbear to act on it from any desire, however strong, to bring the session to an early close.

The situation of the country, in regard to its finances and the collection of its revenues, is most deplorable. With a perfectly sound legal currency, the national revenues are not collected in this currency, but in paper of various sorts and various degrees of value. The origin and progress of this evil are distinctly known, but it is not easy to see its duration or its future extent, if an adequate remedy be not soon found. Before the war, the business of the country was conducted principally by means of the paper of the different State banks. As these were in good credit, and paid their notes in gold and silver on demand, no great evil was experienced from the circulation of their paper. Not being, however, a part of the legal money of the country, it could not, by law, be received in the payment of duties, taxes, or other debts to government. But being payable, and hitherto regularly paid, on demand, the collectors and agents of government had generally received it as cash; it had been deposited as cash in the banks which received the deposits

of government, and from them it had been drawn as cash, and paid off to creditors of the public.

During the war this state of things changed. Many of the banks had been induced to make loans to a very great amount to the government. These loans were made by an issue of their own bills. This proceeding threw into circulation an immense quantity of bank paper, in no degree corresponding with the mercantile business of the country, and resting, for its payment and redemption, on nothing but the government stocks, which were held by the banks. The consequence immediately followed, which it would be imputing a great degree of blindness both to the government and to the banks to suggest that they had not foreseen. The excess of paper which was found everywhere created alarm. Demands began to be made on the banks, and they all stopped payment. No contrivance to get money without inconvenience to the people ever had a shorter course of experiment, or a more unequivocal termination. The depreciation of bank-notes was the necessary consequence of a neglect or refusal to pay them, on the part of those who issued them. It took place immediately, and has continued, with occasional fluctuations in the depression, to the present moment. What still further increases the evil is, that this bank paper, being the issue of very many institutions, situated in different parts of the country, and possessing different degrees of credit, the depreciation has not been, and is not now, uniform throughout the United States. It is not the same at Baltimore as at Philadelphia, nor the same at Philadelphia as at New York. In New England, the banks have not stopped payment in specie, and of course their paper has not been depressed at all. But the notes of banks which have ceased to pay specie have, nevertheless, been, and still are, received for duties and taxes, in the places where such banks exist. The consequence of all this is, that the people of the United States pay their duties and taxes in currencies of different values in different places. In other words, taxes and duties are higher in some places than they are in others, by as much as the value of gold and silver is greater than the value of the several descriptions of bank paper which are received by government. This difference in relation to the paper of the District where we now are, is twenty-five per cent. Taxes and duties, therefore, col-

lected in Massachusetts, are one quarter higher than the taxes and duties which are collected, by virtue of the same laws, in the District of Columbia.

By the Constitution of the United States, it is certain that all duties, taxes, and excises ought to be uniform throughout the country; and that no preference should be given, by any regulation of commerce or revenue, to the ports of one State over those of another. This constitutional provision, it is obvi ous, is flagrantly violated. Duties and taxes are not uniform. They are higher in some places than in others. A citizen of New England pays his taxes in gold and silver, or their equivalent. From his hand the collector will not receive, and is instructed by government not to receive, the paper of the banks which do not pay their notes on demand, and which notes he could obtain twenty or twenty-five per cent. cheaper than that which is demanded of him. Yet a citizen of the Middle States pays his taxes in these notes at par. Can a greater injustice than this be conceived? Can constitutional provisions be disregarded in a more essential point? Commercial preferences also are given, which, if they should be continued, would be sufficient to annihilate the commerce of some cities and some States, while they would greatly promote that of others. The importing merchant of Boston pays the duties upon his goods, either in specie or cash notes, which are at least twenty per cent., or in treasury-notes, which are ten per cent. more valuable than the notes which are paid for duties, at par, by the importing merchant at Baltimore. Surely this is not to be endured. Such monstrous inequality and injustice cannot continue. Since the commencement of this course of things, it can be shown that the people of the Northern States have paid a million of dollars more than their just proportion of the public burdens. A similar inequality, though somewhat less in degree, has fallen upon the States south of the Potomac, in which the paper in circulation, although not equivalent to specie, is yet of higher value than the bank-notes of this District, Maryland, and the Middle States.

But it is not merely the inequality and injustice of this system, if that may be called system which is rather the want of all system, that need reform. It throws the whole revenue into derangement and endless confusion. It prevents the possibility

of order, method, or certainty in the public receipts or disbursements. This mass of depressed paper, thrown out at first in loans to accommodate government, has done little else than embarrass and distress government. It can hardly be said to circulate, but it lies in the channel of circulation, and chokes it up by its bulk and its sluggishness. In a great portion of the country the dues are not paid, or are badly paid; and in an equal portion of the country the public creditors are not paid, or are paid badly.

It is quite clear, that by the statute all duties and taxes are required to be paid in the legal money of the United States, or in treasury-notes, agreeably to recent provisions. It is just as clear, that the law has been disregarded, and that the notes of banks of a hundred different descriptions, and almost as many different values, have been received, and still are received, where the statute requires legal money or treasury-notes to be paid.

In these circumstances, I cannot persuade myself that Congress will adjourn, without attempting something by way of remedy. In my opinion, no greater evil has threatened us. Nothing can more endanger, either the existence and preservation of the public revenue, or the security of private property, than the consequences which are to be apprehended from the present course of things, if they be not arrested by a timely and an effectual interference. Let gentlemen consider what will probably happen, if Congress should rise without the adoption of any measure on the subject.

Virginia, having passed a law for compelling the banks in that State to limit the circulation of their paper, and resume specie payments by the autumn, will, doubtless, repeal it. The States farther to the south will probably fall into a similar relaxation, for it is hardly to be expected that they will have firmness and perseverance enough to persist in their present most prudent and commendable course, without the countenance of the general government. If, in addition to these events, an abandonment of the wholesome system which has thus far prevailed in the Northern States, or any relaxation of that system, should take place, the government is in danger of falling into a condition, from which it will hardly be able to extricate itself for twenty years, if indeed it shall ever be able to extricate itself; and if

that state of things, instead of being changed by the government, shall not change the government.

It is our business to foresee this danger, and to avoid it. There are some political evils which are seen as soon as they are dangerous, and which alarm at once as well the people as the government. Wars and invasions, therefore, are not always the most certain destroyers of national prosperity. They come in no questionable shape. They announce their own approach, and the general security is preserved by the general alarm. Not so with the evils of a debased coin, a depreciated paper currency, or a depressed and falling public credit. Not so with the plausible and insidious mischiefs of a paper-money system. These insinuate themselves in the shape of facilities, accommodation, and relief. They hold out the most fallacious hope of an easy payment of debts, and a lighter burden of taxation. It is easy for a portion of the people to imagine that government may properly continue to receive depreciated paper, because they have received it, and because it is more convenient to obtain it than to obtain other paper or specie. But on these subjects it is that government ought to exercise its own peculiar wisdom and caution. It is supposed to possess, on subjects of this nature, somewhat more of foresight than has fallen to the lot of individuals. It is bound to foresee the evil before every man feels it, and to take all necessary measures to guard against it, although they may be measures attended with some difficulty and not without temporary inconvenience. In my humble judgment, the evil demands the immediate attention of Congress. It is not certain, and in my opinion not probable, that it will ever cure itself. It is more likely to grow by indulgence, while the remedy which must in the end be applied will become less efficacious by delay.

The only power which the general government possesses of restraining the issues of the State banks, is to refuse their notes in the receipts of the treasury. This power it can exercise now, or at least it can provide now for exercising in reasonable time, because the currency of some part of the country is yet sound, and the evil is not universal. If it should become universal, who that hesitates now will then propose any adequate means of relief? If a measure like the bill of yesterday, or the resolutions of to-day, can hardly pass here now,

what hope is there that any efficient measure will be adopted hereafter?

The conduct of the treasury department in receiving the notes of the banks, after they had suspended payment, might, or might not, have been excused by the necessity of the case. That is not now the subject of inquiry. I wish such inquiry had been instituted. It ought to have been. It is of dangerous consequence to permit plain omissions to execute the law to pass off, under any circumstances, without inquiry. It would probably be easier to prove that the treasury must have continued to receive such notes, or that all payments to government would have been suspended, than it would be to justify the previous negotiations of great loans at the banks, which was a voluntary transaction, induced by no particular necessity, and which is, nevertheless, beyond doubt, the principal cause of their present condition. But I have expressed my belief on more than one occasion, and I repeat the opinion, that it was the duty, and in the power, of the Secretary of the Treasury, on the return of peace, to return to the legal and proper mode of collecting the revenue. The paper of the banks rose on that occasion almost to an equality with specie; that was the favorable moment. The banks in which the public money was deposited ought to have been induced to lead the way, by the sale of their government stocks, and other measures calculated to bring about, moderately and gradually, but regularly and certainly, the restoration of the former and only safe state of things. It can hardly be doubted, that the influence of the treasury could have affected all this. If not, it could have withdrawn the deposits and countenance of government from institutions which, against all rule and all propriety, were holding great sums in government stocks, and making enormous profits from the circulation of their own dishonored paper. That which was most wanted was the designation of a time for the corresponding operation of banks in different places. This could have been made by the head of the treasury, better than by any body or every body else. But the occasion was suffered to pass by unimproved, and the credit of the banks soon fell again, when it was found they used none of the means which the opportunity afforded them for enabling them to fulfil their engagements.

As to any power of compulsion to be exercised over the State

banks, they are not subject to the direct control of the general government. It is for the State authorities which created them to decide whether they have acted according to their charters, and if not, what shall be the remedy for their irregularities. But from such of them as continued to receive deposits of public money, government had a right to expect that they would conduct their concerns according to the safe and well-known principles which should properly govern such institutions. It is bound also to collect its taxes of the people on a uniform system. These rights and these duties are too important to be surrendered to the accommodation of any particular interest or any temporary purpose.

The resolutions before the House take no notice of the State banks. They express neither praise nor censure of them. They neither commend them for their patriotism in the loans made to government, nor propose to tax them for their neglect or refusal to pay their debts. They assume no power of interfering with these institutions. They say not one word about compelling them to resume their payments; they leave that to the consideration of the banks themselves, or to those who have a right to call them to account for any misconduct in that respect. But the resolutions declare that taxes ought to be equal; that preferences ought not to be given; that the revenues of the country ought not to be diminished in amount, nor hazarded altogether, by the receipt of varying and uncertain paper; and that the present state of things, in which all these unconstitutional, illegal, and dangerous ingredients are mixed, ought not to exist.

It has been said, that these resolutions may be construed into a justification of the past conduct of the treasury department. Such an objection has been anticipated. It was made, in my opinion, with much more justice to the bill rejected yesterday, and a provision was therefore subsequently introduced into that bill to exclude such an inference. This is certainly not the time to express any justification or approbation of the conduct of that department on this subject, and I trust these resolutions do not imply it. Nor do the resolutions propose to express any censure. A sufficient reason for declining to do either is, that the facts are not sufficiently known. What loss has actually happened, what amount — it is said to be large — may be now in the treasury, in notes which will not pass, or under what

circumstances these were received, is not now sufficiently ascertained.

But before these resolutions are rejected, on the ground that they may shield the treasury department from responsibility, it ought to be clearly shown that they are capable of such a construction. The mere passing of any resolution cannot have that effect. A declaration of what ought to be done does not necessarily imply any sanction of what has been done. It may sometimes imply the contrary. These resolutions cannot be made to imply any more than this, — that the financial affairs of the country are in such a condition that the revenue cannot be instantly collected in legal currency. This they do imply, and this I suppose almost all admit to be true. An instantaneous execution of the law, without warning or notice, could in my opinion produce nothing, in a portion of the country, but an entire suspension of payments.

But to whose fault it is owing that the affairs of the country are reduced to this condition, they do not declare. They do not prevent, or in any degree embarrass, future inquiry on that subject. They speak to the fact that the finances are deranged. They say, also, that reformation, though it must be gradual, ought to be immediately begun, and to be carried to perfection in the shortest time practicable. They cannot by any fair construction be made to express the approbation of Congress on the past conduct of any high officer of government; and if the time shall ever come when this House shall deem investigation necessary, it must be a case of very unpromising aspect, and of most fearful issue, which shall afford no other hope of escape than by setting up these resolutions by way of bar to an inquiry.

Nor is it any objection to this measure that inquiry has not first been had. Two duties may be supposed to have rested on the House: the one, to inquire into the origin of the evil, if it needed inquiry; and the other, to find and apply the remedy. Because one of these duties has not hitherto been discharged, is no reason why the other should be longer neglected. While we are deciding which to do first, the time of the session is going by us, and neither may be done. In the mean time, public mischiefs of unknown magnitude and incalculable duration threaten the country. I see no equivalent, no consolation, no mitigation, for these evils in the future responsibility of departments. Let

gentlemen show me any responsibility which will not be a name and a mockery. If, when we meet here again, it shall be found that all the barriers which have hitherto, in any degree, restrained the emissions of a paper money of the very worst sort, have given way, and that the floods have broken in upon us and come over us, — if it shall be found that revenues have failed, that the public credit, now a little propped and supported by a state of peace and commerce, has again tottered and fallen to the ground, and that all the operations of government are at a stand, — what then will be the value of the responsibility of departments? How great, then, the value of inquiry, when the evil is past prevention, when officers may have gone out of place, and when, indeed, the whole administration will necessarily be dissolving by the expiration of the term for which the chief executive magistrate was chosen? I cannot consent to stake the chance of the greatest public mischiefs upon a reliance on any such responsibility. The stakes are too unequal.

As to the opinion advanced by some, that the object of the resolutions cannot in any way be answered, that the revenues cannot be collected otherwise than as they are now, in the paper of any and every banking association which chooses to issue paper, it cannot for a moment be admitted. This would be at once giving up the government; for what is government without revenue, and what is a revenue that is gathered together in the varying, fluctuating, discredited, depreciated, and still falling promissory notes of two or three hundred distinct, and, as to this government, irresponsible banking companies? If it cannot collect its revenues in a better manner than this, it must cease to be a government. This thing, therefore, is to be done; at any rate it is to be attempted. That it will be accomplished by the treasury department, without the interference of Congress, I have no belief. If from that source no reformation came when reformation was easy, it is not now to be expected. Especially after the vote of yesterday, those whose interest it is to continue the present state of things will arm themselves with the authority of Congress. They will justify themselves by the decision of this House. They will say, and say truly, that this House, having taking up the subject and discussed it, has not thought fit so much as to declare that it is expedient ever to relieve the country or its revenues from a paper-money system. Whoever

believes that the treasury department will oppose this tide, aided as it will be by strong feeling and great interest, has more faith in that department than has fallen to my lot. It is the duty of this House to interfere with its own authority. Having taxed the people with no light hand, it is now its duty to take care that the people do not sustain these burdens in vain. The taxes are not borne without feeling. They will not be borne without complaint, if, by mismanagement in collection, their utility to government should be lost, and they should get into the treasury at last only in discredited and useless paper.

A bank of thirty-five millions has been created for the professed purpose of correcting the evils of our circulation, and facilitating the receipts and expenditures of government. I am not so sanguine in the hope of great benefit from this measure as others are. But the treasury is also authorized to issue twenty-five millions of treasury-notes, eighteen or twenty millions of which remain yet to be issued, and which are also allowed by law to be received for duties and taxes. In addition to these is the coin which is in the country, and which is sure to come forth into circulation whenever there is a demand for it. These means, if wisely and skilfully administered, are sufficient to prevent any particular pressure, or great inconvenience, in returning to the legal mode of collecting the revenue. It is true, it may be easier for the people in the States in which the depreciated paper exists to pay their taxes in such paper than in the legal currency of treasury-notes, because they can get it cheaper. But this is only saying that it is easier to pay a small tax than to pay a large one, or that money costs more than that which is less valuable than money, a proposition not to be disputed. But a medium of payment convenient for the people and safe for the government will be furnished, and may everywhere be obtained for a reasonable price. This is all that can justly be expected of Congress. Having provided this, they ought to require all parts of the country to conform to the same measure of justice. If taxes be not necessary, they should not be laid. If laid, they ought to be collected without preference or partiality.

But while some gentlemen oppose the resolutions because tney fix a day too near, others think they fix a day too distant. In my own judgment, it is not so material what the time is, as

it is to fix a time. The great object is to settle the question, that our legal currency is to be preserved, and that we are not about to embark on the ocean of paper money. The State banks, if they consult their own interest, or the interest of the community, will dispose of their government stocks, and prepare themselves to redeem their paper and fulfil their contracts. If they should not adopt this course, there will be time for the people to be informed that the paper of such institutions will not answer the demands of government, and that duties and taxes must be paid in the manner provided by law.

I cannot say, indeed, that this measure will certainly produce the desired effect. It may fail. Its success, as is obvious, must essentially depend on the course pursued by the treasury department. But its tendency, I think, will be to produce good. It will, I hope, be a proof that Congress is not regardless of its duty. It will be evidence that this great subject has not passed without notice. It will record our determination to resist the introduction of a most destructive and miserable policy into our system; and if there be any sanction or authority in the Constitution and the law, if there be any regard for justice and equality, if there be any care for the national revenue, or any concern for the public interest, let gentlemen consider whether they will relinquish their seat here before this or some other measure be adopted.

THE REVOLUTION IN GREECE.*

THE rise and progress of the revolution in Greece attracted great attention in the United States. Many obvious causes contributed to this effect, and their influence was seconded by the direct appeal made to the people of America, by the first political body organized in Greece after the breaking out of the revolution, viz. "The Messenian Senate of Calamata." A formal address was made by that body to the people of the United States, and forwarded by their committee (of which the celebrated Koray was chairman), to a friend and correspondent in this country. This address was translated and widely circulated; but it was not to be expected that any great degree of confidence should be at once generally felt in a movement undertaken against such formidable odds.

The progress of events, however, in 1822 and 1823, was such as to create an impression that the revolution in Greece had a substantial foundation in the state of affairs, in the awakened spirit of that country, and in the condition of public opinion throughout Christendom. The interest felt in the struggle rapidly increased in the United States. Local committees were formed, animated appeals were made, and funds collected, with a view to the relief of the victims of the war.

On the assembling of Congress, in December, 1823, President Monroe made the revolution in Greece the subject of a paragraph in his annual message, and on the 8th of December Mr. Webster moved the following resolution in the House of Representatives: —

"*Resolved*, That provision ought to be made, by law, for defraying the expense incident to the appointment of an Agent or Commissioner to Greece, whenever the President shall deem it expedient to make such appointment."

These, it is believed, are the first official expressions favorable to the independence of Greece uttered by any of the governments of Christendom, and no doubt contributed powerfully towards the creation of that feeling throughout the civilized world which eventually led to the battle

* A Speech delivered in the House of Representatives of the United States on the 19th of January, 1824.

of Navarino, and the liberation of a portion of Greece from the Turkish yoke.

The House of Representatives having, on the 19th of January, resolves itself into a committee of the whole, and this resolution being taken into consideration, Mr. Webster spoke to the following effect.

I AM afraid, Mr. Chairman, that, so far as my part in this discussion is concerned, those expectations which the public excitement existing on the subject, and certain associations easily suggested by it, have conspired to raise, may be disappointed. An occasion which calls the attention to a spot so distinguished, so connected with interesting recollections, as Greece, may naturally create something of warmth and enthusiasm. In a grave, political discussion, however, it is necessary that those feelings should be chastised. I shall endeavor properly to repress them, although it is impossible that they should be altogether extinguished. We must, indeed, fly beyond the civilized world; we must pass the dominion of law and the boundaries of knowledge; we must, more especially, withdraw ourselves from this place, and the scenes and objects which here surround us, — if we would separate ourselves entirely from the influence of all those memorials of herself which ancient Greece has transmitted for the admiration and the benefit of mankind. This free form of government, this popular assembly, the common council held for the common good, — where have we contemplated its earliest models? This practice of free debate and public discussion, the contest of mind with mind, and that popular eloquence, which, if it were now here, on a subject like this, would move the stones of the Capitol, — whose was the language in which all these were first exhibited? Even the edifice in which we assemble, these proportioned columns, this ornamented architecture, all remind us that Greece has existed, and that we, like the rest of mankind, are greatly her debtors.*

But I have not introduced this motion in the vain hope of discharging any thing of this accumulated debt of centuries. I have not acted upon the expectation, that we, who have inherited this obligation from our ancestors, should now attempt to pay it to those who may seem to have inherited from *their* an-

* The interior of the hall of the House of Representatives is surrounded by a magnificent colonnade of the composite order.

cestors a right to receive payment. My object is nearer and more immediate. I wish to take occasion of the struggle of an interesting and gallant people, in the cause of liberty and Christianity, to draw the attention of the House to the circumstances which have accompanied that struggle, and to the principles which appear to have governed the conduct of the great states of Europe in regard to it; and to the effects and consequences of these principles upon the independence of nations, and especially upon the institutions of free governments. What I have to say of Greece, therefore, concerns the modern, not the ancient; the living, and not the dead. It regards her, not as she exists in history, triumphant over time, and tyranny, and ignorance; but as she now is, contending, against fearful odds, for being, and for the common privileges of human nature.

As it is never difficult to recite commonplace remarks and trite aphorisms, so it may be easy, I am aware, on this occasion, to remind me of the wisdom which dictates to men a care of their own affairs, and admonishes them, instead of searching for adventures abroad, to leave other men's concerns in their own hands. It may be easy to call this resolution *Quixotic*, the emanation of a crusading or propagandist spirit. All this, and more, may be readily said; but all this, and more, will not be allowed to fix a character upon this proceeding, until that is proved which it takes for granted. Let it first be shown, that in this question there is nothing which can affect the interest, the character, or the duty of this country. Let it be proved, that we are not called upon, by either of these considerations, to express an opinion on the subject to which the resolution relates. Let this be proved, and then it will indeed be made out, that neither ought this resolution to pass, nor ought the subject of it to have been mentioned in the communication of the President to us. But, in my opinion, this cannot be shown. In my judgment, the subject is interesting to the people and the government of this country, and we are called upon, by considerations of great weight and moment, to express our opinions upon it. These considerations, I think, spring from a sense of our own duty, our character, and our own interest. I wish to treat the subject on such grounds, exclusively, as are truly *American;* but then, in considering it as an American question, I cannot forget the age in which we live, the prevailing spirit of the age, the in-

teresting questions which agitate it, and our own peculiar relation in regard to these interesting questions. Let this be, then, and as far as I am concerned I hope it will be, purely an American discussion; but let it embrace, nevertheless, every thing that fairly concerns America. Let it comprehend, not merely her present advantage, but her permanent interest, her elevated character as one of the free states of the world, and her duty towards those great principles which have hitherto maintained the relative independence of nations, and which have, more especially, made her what she is.

At the commencement of the session, the President, in the discharge of the high duties of his office, called our attention to the subject to which this resolution refers. "A strong hope," says that communication, "has been long entertained, founded on the heroic struggle of the Greeks, that they would succeed in their contest, and resume their equal station among the nations of the earth. It is believed that the whole civilized world takes a deep interest in their welfare. Although no power has declared in their favor, yet none, according to our information, has taken part against them. Their cause and their name have protected them from dangers which might ere this have overwhelmed any other people. The ordinary calculations of interest, and of acquisition with a view to aggrandizement, which mingle so much in the transactions of nations, seem to have had no effect in regard to them. From the facts which have come to our knowledge, there is good cause to believe that their enemy has lost for ever all dominion over them; that Greece will become again an independent nation."

It has appeared to me that the House should adopt some resolution reciprocating these sentiments, so far as it shall approve them. More than twenty years have elapsed since Congress first ceased to receive such a communication from the President as could properly be made the subject of a general answer. I do not mean to find fault with this relinquishment of a former and an ancient practice. It may have been attended with inconveniences which justified its abolition. But, certainly, there was one advantage belonging to it; and that is, that it furnished a fit opportunity for the expression of the opinion of the houses of Congress upon those topics in the executive communication which were not expected to be made the immediate

subjects of direct legislation. Since, therefore, the President's message does not now receive a general answer, it has seemed to me to be proper that, in some mode, agreeable to our own usual form of proceeding, we should express our sentiments upon the important and interesting topics on which it treats.

If the sentiments of the message in respect to Greece be proper, it is equally proper that this House should reciprocate those sentiments. The present resolution is designed to have that extent, and no more. If it pass, it will leave any future proceeding where it now is, in the discretion of the executive government. It is but an expression, under those forms in which the House is accustomed to act, of the satisfaction of the House with the general sentiments expressed in regard to this subject in the message, and of its readiness to defray the expense incident to any inquiry for the purpose of further information, or any other agency which the President, in his discretion, shall see fit, in whatever manner and at whatever time, to institute. The whole matter is still left in his judgment, and this resolution can in no way restrain its unlimited exercise.

I might well, Mr. Chairman, avoid the responsibility of this measure, if it had, in my judgment, any tendency to change the policy of the country. With the general course of that policy I am quite satisfied. The nation is prosperous, peaceful, and happy; and I should very reluctantly put its peace, prosperity, or happiness at risk. It appears to me, however, that this resolution is strictly conformable to our general policy, and not only consistent with our interests, but even demanded by a large and liberal view of those interests.

It is certainly true that the just policy of this country is, in the first place, a peaceful policy. No nation ever had less to expect from forcible aggrandizement. The mighty agents which are working out our greatness are time, industry, and the arts. Our augmentation is by growth, not by acquisition; by internal development, not by external accession. No schemes can be suggested to us so magnificent as the prospects which a sober contemplation of our own condition, unaided by projects, uninfluenced by ambition, fairly spreads before us. A country of such vast extent, with such varieties of soil and climate, with so much public spirit and private enterprise, with a population increasing so much beyond former example, with capacities of improve-

ment not only unapplied or unexhausted, but even, in a great measure, as yet unexplored,—so free in its institutions, so mild in its laws, so secure in the title it confers on every man to his own acquisitions,—needs nothing but time and peace to carry it forward to almost any point of advancement.

In the next place, I take it for granted that the policy of this country, springing from the nature of our government and the spirit of all our institutions, is, so far as it respects the interesting questions which agitate the present age, on the side of liberal and enlightened sentiments. The age is extraordinary; the spirit that actuates it is peculiar and marked; and our own relation to the times we live in, and to the questions which interest them, is equally marked and peculiar. We are placed, by our good fortune and the wisdom and valor of our ancestors, in a condition in which we *can* act no obscure part. Be it for honor, or be it for dishonor, whatever we do is sure to attract the observation of the world. As one of the free states among the nations, as a great and rapidly rising republic, it would be impossible for us, if we were so disposed, to prevent our principles, our sentiments, and our example from producing some effect upon the opinions and hopes of society throughout the civilized world. It rests probably with ourselves to determine whether the influence of these shall be salutary or pernicious.

It cannot be denied that the great political question of this age is that between absolute and regulated governments. The substance of the controversy is whether society shall have any part in its own government. Whether the form of government shall be that of limited monarchy, with more or less mixture of hereditary power, or wholly elective or representative, may perhaps be considered as subordinate. The main controversy is between that absolute rule, which, while it promises to govern well, means, nevertheless, to govern without control, and that constitutional system which restrains sovereign discretion, and asserts that society may claim as matter of right some effective power in the establishment of the laws which are to regulate it. The spirit of the times sets with a most powerful current in favor of these last-mentioned opinions. It is opposed, however whenever and wherever it shows itself, by certain of the great potentates of Europe; and it is opposed on grounds as applicable in one civilized nation as in another, and which would

justify such opposition in relation to the United States, as well as in relation to any other state or nation, if time and circumstances should render such opposition expedient.

What part it becomes this country to take on a question of this sort, so far as it is called upon to take any part, cannot be doubtful. Our side of this question is settled for us, even without our own volition. Our history, our situation, our character, necessarily decide our position and our course, before we have even time to ask whether we have an option. Our place is on the side of free institutions. From the earliest settlement of these States, their inhabitants were accustomed, in a greater or less degree, to the enjoyment of the powers of self-government; and for the last half-century they have sustained systems of government entirely representative, yielding to themselves the greatest possible prosperity, and not leaving them without distinction and respect among the nations of the earth. This system we are not likely to abandon; and while we shall no farther recommend its adoption to other nations, in whole or in part, than it may recommend itself by its visible influence on our own growth and prosperity, we are, nevertheless, interested to resist the establishment of doctrines which deny the legality of its foundations. We stand as an equal among nations, claiming the full benefit of the established international law; and it is our duty to oppose, from the earliest to the latest moment, any innovations upon that code which shall bring into doubt or question our own equal and independent rights.

I will now, Mr. Chairman, advert to those pretensions put forth by the allied sovereigns of Continental Europe, which seem to me calculated, if unresisted, to bring into disrepute the principles of our government, and, indeed, to be wholly incompatible with any degree of national independence. I do not introduce these considerations for the sake of topics. I am not about to declaim against crowned heads, nor to quarrel with any country for preferring a form of government different from our own. The right of choice that we exercise for ourselves, I am quite willing to leave also to others. But it appears to me that the pretensions to which I have alluded are wholly inconsistent with the independence of nations generally, without regard to the question whether their governments be absolute, monarchical and limited, or purely popular and representative. I have a

most deep and thorough conviction, that a new era has arisen in the world, that new and dangerous combinations are taking place, promulgating doctrines and fraught with consequences wholly subversive in their tendency of the public law of nations and of the general liberties of mankind. Whether this be so, or not, is the question which I now propose to examine, upon such grounds of information as are afforded by the common and public means of knowledge.

Every body knows that, since the final restoration of the Bourbons to the throne of France, the Continental powers have entered into sundry alliances, which have been made public, and have held several meetings or congresses, at which the principles of their political conduct have been declared. These things must necessarily have an effect upon the international law of the states of the world. If that effect be good, and according to the principles of that law, they deserve to be applauded. If, on the contrary, their effect and tendency be most dangerous, their principles wholly inadmissible, their pretensions such as would abolish every degree of national independence, then they are to be resisted.

I begin, Mr. Chairman, by drawing your attention to the treaty concluded at Paris in September, 1815, between Russia, Prussia, and Austria, commonly called the Holy Alliance. This singular alliance appears to have originated with the Emperor of Russia; for we are informed that a draft of it was exhibited by him, personally, to a plenipotentiary of one of the great powers of Europe, before it was presented to the other sovereigns who ultimately signed it.* This instrument professes nothing, certainly, which is not extremely commendable and praiseworthy. It promises only that the contracting parties, both in relation to other states, and in regard to their own subjects, will observe the rules of justice and Christianity. In confirmation of these promises, it makes the most solemn and devout religious invocations. Now, although such an alliance is a novelty in European history, the world seems to have received this treaty, upon its first promulgation, with general charity. It was commonly understood as little or nothing more than an expression

* See Lord Castlereagh's speech in the House of Commons, February 3, 1816. Debates in Parliament, Vol. XXXVI. p. 355; where also the treaty may be found at length.

of thanks for the successful termination of the momentous contest in which those sovereigns had been engaged. It still seems somewhat unaccountable, however, that these good resolutions should require to be confirmed by treaty. Who doubted that these august sovereigns would treat each other with justice, and rule their own subjects in mercy? And what necessity was there for a solemn stipulation by treaty, to insure the performance of that which is no more than the ordinary duty of every government? It would hardly be admitted by these sovereigns, that by this compact they consider themselves bound to introduce an entire change, or any change, in the course of their own conduct. Nothing substantially new, certainly, can be supposed to have been intended. What principle, or what practice, therefore, called for this solemn declaration of the intention of the parties to observe the rules of religion and justice?

It is not a little remarkable, that a writer of reputation upon the Public Law, described, many years ago, not inaccurately, the character of this alliance. I allude to Puffendorf. "It seems useless," says he, "to frame any pacts or leagues, barely for the defence and support of universal peace; for by such a league nothing is superadded to the obligation of natural law, and no agreement is made for the performance of any thing which the parties were not previously bound to perform; nor is the original obligation rendered firmer or stronger by such an addition. Men of any tolerable culture and civilization might well be ashamed of entering into any such compact, the conditions of which imply only that the parties concerned shall not offend in any clear point of duty. Besides, we should be guilty of great irreverence towards God, should we suppose that his injunctions had not already laid a sufficient obligation upon us to act justly, unless we ourselves voluntarily consented to the same engagement; as if our obligation to obey his will depended upon our own pleasure.

"If one engage to serve another, he does not set it down expressly and particularly among the terms and conditions of the bargain, that he will not betray nor murder him, nor pillage nor burn his house. For the same reason, that would be a dishonorable engagement, in which men should bind themselves to act properly and decently, and not break the peace." *

* Law of Nature and Nations, Book II. cap. 2, § 11.

Such were the sentiments of that eminent writer. How nearly he had anticipated the case of the Holy Alliance will appear from the preamble to that alliance. After stating that the allied sovereigns had become persuaded, by the events of the last three years, that "their relations with each other ought to be regulated exclusively by the sublime truths taught by the eternal religion of God the Saviour," they solemnly declare their fixed resolution "to adopt as the sole rule of their conduct, both in the administration of their respective states, and in their political relations with every other government, the precepts of that holy religion, namely, the precepts of justice, charity, and peace, which, far from being applicable to private life alone, ought, on the contrary, to have a direct influence upon the counsels of princes, and guide all their steps, as being the only means of consolidating human institutions, and remedying their imperfections." *

This measure, however, appears principally important, as it was the first of a series, and was followed afterwards by others of a more marked and practical nature. These measures, taken together, profess to establish two principles, which the Allied Powers would introduce as a part of the law of the civilized world; and the establishment of which is to be enforced by a million and a half of bayonets.

The first of these principles is, that all popular or constitutional rights are held no otherwise than as grants from the crown. Society, upon this principle, has no rights of its own; it takes good government, when it gets it, as a boon and a concession, but can demand nothing. It is to live by that favor which emanates from royal authority, and if it have the misfortune to lose that favor, there is nothing to protect it against any degree of injustice and oppression. It can rightfully make no endeavor for a change, by itself; its whole privilege is to receive the favors that may be dispensed by the sovereign power, and all its duty is described in the single word *submission*. This is the plain result of the principal Continental state papers; indeed, it is nearly the identical text of some of them.

The circular despatch addressed by the sovereigns assembled at Laybach, in the spring of 1821, to their ministers at foreign courts, alleges, "that useful and necessary changes in legislation

* Martens, Recueil des Traités, Tome XIII. p. 656.

and in the administration of states ought only to emanate from the free will and intelligent and well-weighed conviction of those whom God has rendered responsible for power. All that deviates from this line necessarily leads to disorder, commotions, and evils far more insufferable than those which they pretend to remedy." * Now, Sir, this principle would carry Europe back again, at once, into the middle of the Dark Ages. It is the old doctrine of the Divine right of kings, advanced now by new advocates, and sustained by a formidable array of power. That the people hold their fundamental privileges as matter of concession or indulgence from the sovereign power, is a sentiment not easy to be diffused in this age, any farther than it is enforced by the direct operation of military means. It is true, certainly, that some six centuries ago the early founders of English liberty called the instrument which secured their rights a *charter*. It was, indeed, a concession; they had obtained it sword in hand from the king; and in many other cases, whatever was obtained, favorable to human rights, from the tyranny and despotism of the feudal sovereigns, was called by the names of *privileges* and *liberties*, as being matter of special favor. Though we retain this language at the present time, the principle itself belongs to ages that have long passed by us. The civilized world has done with "the enormous faith, of many made for one." Society asserts its own rights, and alleges them to be original, sacred, and unalienable. It is not satisfied with having kind masters; it demands a participation in its own government; and in states much advanced in civilization, it urges this demand with a constancy and an energy that cannot well nor long be resisted. There are, happily, enough of regulated governments in the world, and those among the most distinguished, to operate as constant examples, and to keep alive an unceasing panting in the bosoms of men for the enjoyment of similar free institutions.

When the English Revolution of 1688 took place, the English people did not content themselves with the example of Runnymede; they did not build their hopes upon royal charters; they did not, like the authors of the Laybach circular, suppose that all useful changes in constitutions and laws must proceed from those only whom God has rendered responsible for power.

* Annual Register for 1821, p. 601.

They were somewhat better instructed in the principles of civil liberty, or at least they were better lovers of those principles than the sovereigns of Laybach. Instead of petitioning for charters, they declared their rights, and while they offered to the Prince of Orange the crown with one hand, they held in the other an enumeration of those privileges which they did not profess to hold as favors, but which they demanded and insisted upon as their undoubted rights.

I need not stop to observe, Mr. Chairman, how totally hostile are these doctrines of Laybach to the fundamental principles of our government. They are in direct contradiction; the principles of good and evil are hardly more opposite. If these principles of the sovereigns be true, we are but in a state of rebellion or of anarchy, and are only tolerated among civilized states because it has not yet been convenient to reduce us to the true standard.

But the second, and, if possible, the still more objectionable principle, avowed in these papers, is the right of forcible interference in the affairs of other states. A right to control nations in their desire to change their own government, wherever it may be conjectured, or pretended, that such change might furnish an example to the subjects of other states, is plainly and distinctly asserted. The same Congress that made the declaration at Laybach had declared, before its removal from Troppau, "that the powers have an undoubted right to take a hostile attitude in regard to those states in which the overthrow of the government may operate as an example."

There cannot, as I think, be conceived a more flagrant violation of public law, or national independence, than is contained in this short declaration.

No matter what be the character of the government resisted; no matter with what weight the foot of the oppressor bears on the neck of the oppressed; if he struggle, or if he complain, he sets a dangerous example of resistance, — and from that moment he becomes an object of hostility to the most powerful potentates of the earth. I want words to express my abhorrence of this abominable principle. I trust every enlightened man throughout the world will oppose it, and that, especially, those who, like ourselves, are fortunately out of the reach of the bayonets that enforce it, will proclaim their detestation of it, in a

tone both loud and decisive. The avowed object of such declarations is to preserve the peace of the world. But by what means is it proposed to preserve this peace? Simply, by bringing the power of all governments to bear against all subjects. Here is to be established a sort of double, or treble, or quadruple, or, for aught I know, quintuple allegiance. An offence against one king is to be an offence against all kings, and the power of all is to be put forth for the punishment of the offender. A right to interfere in extreme cases, in the case of contiguous states, and where imminent danger is threatened to one by what is occurring in another, is not without precedent in modern times, upon what has been called the law of vicinage; and when confined to extreme cases, and limited to a certain extent, it may perhaps be defended upon principles of necessity and self-defence. But to maintain that sovereigns may go to war upon the subjects of another state to repress an example, is monstrous indeed. What is to be the limit to such a principle, or to the practice growing out of it? What, in any case, but sovereign pleasure, is to decide whether the example be good or bad? And what, under the operation of such a rule, may be thought of our example? Why are we not as fair objects for the operation of the new principle, as any of those who may attempt a reform of government on the other side of the Atlantic?

The ultimate effect of this alliance of sovereigns, for objects personal to themselves, or respecting only the permanence of their own power, must be the destruction of all just feeling, and all natural sympathy, between those who exercise the power of government and those who are subject to it. The old channels of mutual regard and confidence are to be dried up, or cut off. Obedience can now be expected no longer than it is enforced. Instead of relying on the affections of the governed, sovereigns are to rely on the affections and friendship of other sovereigns. There are, in short, no longer to be nations. Princes and people are no longer to unite for interests common to them both. There is to be an end of all patriotism, as a distinct national feeling. Society is to be divided horizontally; all sovereigns above, and all subjects below; the former coalescing for their own security, and for the more certain subjection of the undistinguished multitude beneath. This, Sir, is no picture drawn by imagination.

I have hardly used language stronger than that in which the authors of this new system have commented on their own work. M. de Chateaubriand, in his speech in the French Chamber of Deputies, in February last, declared, that he had a conference with the Emperor of Russia at Verona, in which that august sovereign uttered sentiments which appeared to him so precious, that he immediately hastened home, and wrote them down while yet fresh in his recollection. "The Emperor declared," said he, "that there can no longer be such a thing as an English, French, Russian, Prussian, or Austrian policy; there is henceforth but one policy, which, for the safety of all, should be adopted both by people and kings. It was for me first to show myself convinced of the principles upon which I founded the alliance; an occasion offered itself, — the rising in Greece. Nothing certainly could occur more for my interests, for the interests of my people; nothing more acceptable to my country, than a religious war in Turkey. But I have thought I perceived in the troubles of the Morea the sign of revolution, and I have held back. Providence has not put under my command eight hundred thousand soldiers to satisfy my ambition, but to protect religion, morality, and justice, and to secure the prevalence of those principles of order on which human society rests. It may well be permitted, that kings may have public alliances to defend themselves against secret enemies."

These, Sir, are the words which the French minister thought so important that they deserved to be recorded; and I, too, Sir, am of the same opinion. But if it be true that there is hereafter to be neither a Russian policy, nor a Prussian policy, nor an Austrian policy, nor a French policy, nor even, which yet I will not believe, an English policy, there will be, I trust in God, an American policy. If the authority of all these governments be hereafter to be mixed and blended, and to flow, in one augmented current of prerogative, over the face of Europe, sweeping away all resistance in its course, it will yet remain for us to secure our own happiness by the preservation of our own principles; which I hope we shall have the manliness to express on all proper occasions, and the spirit to defend in every extremity. The end and scope of this amalgamated policy are neither more nor less than this, to interfere, by force, for any government, against any people who may resist it. Be the state of the

people what it may, they shall not rise; be the government what it will, it shall not be opposed.

The practical commentary has corresponded with the plain language of the text. Look at Spain, and at Greece. If men may not resist the Spanish Inquisition, and the Turkish cimeter, what is there to which humanity must not submit? Stronger cases can never arise. Is it not proper for us, at all times, is it not our duty, at this time, to come forth, and deny, and condemn, these monstrous principles? Where, but here, and in one other place, are they likely to be resisted? They are advanced with equal coolness and boldness; and they are supported by immense power. The timid will shrink and give way, and many of the brave may be compelled to yield to force. Human liberty may yet, perhaps, be obliged to repose its principal hopes on the intelligence and the vigor of the Saxon race. As far as depends on us, at least, I trust those hopes will not be disappointed; and that, to the extent which may consist with our own settled, pacific policy, our opinions and sentiments may be brought to act on the right side, and to the right end, on an occasion which is, in truth, nothing less than a momentous question between an intelligent age, full of knowledge, thirsting for improvement, and quickened by a thousand impulses, on one side, and the most arbitrary pretensions, sustained by unprecedented power, on the other.

This asserted right of forcible intervention in the affairs of other nations is in open violation of the public law of the world Who has authorized these learned doctors of Troppau to establish new articles in this code? Whence are their diplomas? Is the whole world expected to acquiesce in principles which entirely subvert the independence of nations? On the basis of this independence has been reared the beautiful fabric of international law. On the principle of this independence, Europe has seen a family of nations flourishing within its limits, the small among the large, protected not always by power, but by a principle above power, by a sense of propriety and justice. On this principle, the great commonwealth of civilized states has been hitherto upheld. There have been occasional departures or violations, and always disastrous, as in the case of Poland; but, in general, the harmony of the system has been wonderfully preserved. In the production and preservation of this sense of

justice, this predominating principle, the Christian religion has acted a main part. Christianity and civilization have labored together; it seems, indeed, to be a law of our human condition, that they can live and flourish only together. From their blended influence has arisen that delightful spectacle of the prevalence of reason and principle over power and interest, so well described by one who was an honor to the age; —

> "And sovereign Law, the state's collected will,
> O'er thrones and globes elate,
> Sits empress, — crowning good, repressing ill:
> Smit by her sacred frown,
> The fiend, Discretion, like a vapor, sinks,
> And e'en the all-dazzling crown
> Hides his faint rays, and at her bidding shrinks."

But this vision is past. While the teachers of Laybach give the rule, there will be no law but the law of the strongest.

It may now be required of me to show what interest *we* have in resisting this new system. What is it to *us*, it may be asked, upon what principles, or what pretences, the European governments assert a right of interfering in the affairs of their neighbors? The thunder, it may be said, rolls at a distance. The wide Atlantic is between us and danger; and, however others may suffer, *we* shall remain safe.

I think it is a sufficient answer to this to say, that we are one of the nations of the earth; that we have an interest, therefore, in the preservation of that system of national law and national intercourse which has heretofore subsisted, so beneficially for all. Our system of government, it should also be remembered, is, throughout, founded on principles utterly hostile to the new code; and if we remain undisturbed by its operation, we shall owe our security either to our situation or our spirit. The enterprising character of the age, our own active, commercial spirit, the great increase which has taken place in the intercourse among civilized and commercial states, have necessarily connected us with other nations, and given us a high concern in the preservation of those salutary principles upon which that intercourse is founded. We have as clear an interest in international law, as individuals have in the laws of society.

But apart from the soundness of the policy, on the ground of direct interest, we have, Sir, a duty connected with this

subject, which I trust we are willing to perform. What do *we* not owe to the cause of civil and religious liberty? to the principle of lawful resistance? to the principle that society has a right to partake in its own government? As the leading republic of the world, living and breathing in these principles, and advanced, by their operation, with unequalled rapidity in our career, shall we give *our* consent to bring them into disrepute and disgrace? It is neither ostentation nor boasting to say, that there lies before this country, in immediate prospect, a great extent and height of power. We are borne along towards this, without effort, and not always even with a full knowledge of the rapidity of our own motion. Circumstances which never combined before have coöperated in our favor, and a mighty current is setting us forward which we could not resist even if we would, and which, while we would stop to make an observation, and take the sun, has set us, at the end of the operation, far in advance of the place where we commenced it. Does it not become us, then, is it not a duty imposed on us, to give our weight to the side of liberty and justice, to let mankind know that we are not tired of our own institutions, and to protest against the asserted power of altering at pleasure the law of the civilized world?

But whatever we do in this respect, it becomes us to do upon clear and consistent principles. There is an important topic in the message to which I have yet hardly alluded. I mean the rumored combination of the European Continental sovereigns against the newly established free states of South America. Whatever position this government may take on that subject, I trust it will be one which can be defended on known and acknowledged grounds of right. The near approach or the remote distance of danger may affect policy, but cannot change principle. The same reason that would authorize us to protest against unwarrantable combinations to interfere between Spain and her former colonies, would authorize us equally to protest, if the same combination were directed against the smallest state in Europe, although our duty to ourselves, our policy, and wisdom, might indicate very different courses as fit to be pursued by us in the two cases. We shall not, I trust, act upon the notion of dividing the world with the Holy Alliance, and complain of nothing done by them in their hemisphere if they will not inter-

fere with ours. At least this would not be such a course of policy as I could recommend or support. We have not offended, and I hope we do not intend to offend, in regard to South America, against any principle of national independence or of public law. We have done nothing, we shall do nothing, that we need to hush up or to compromise by forbearing to express our sympathy for the cause of the Greeks, or our opinion of the course which other governments have adopted in regard to them.

It may, in the next place, be asked, perhaps, Supposing all this to be true, what can *we* do? Are we to go to war? Are we to interfere in the Greek cause, or any other European cause? Are we to endanger our pacific relations? No, certainly not. What, then, the question recurs, remains for us? If we will not endanger our own peace, if we will neither furnish armies nor navies to the cause which we think the just one, what is there within our power?

Sir, this reasoning mistakes the age. The time has been, indeed, when fleets, and armies, and subsidies, were the principal reliances even in the best cause. But, happily for mankind, a great change has taken place in this respect. Moral causes come into consideration, in proportion as the progress of knowledge is advanced; and the public opinion of the civilized world is rapidly gaining an ascendency over mere brutal force. It is already able to oppose the most formidable obstruction to the progress of injustice and oppression; and as it grows more intelligent and more intense, it will be more and more formidable. It may be silenced by military power, but it cannot be conquered. It is elastic, irrepressible, and invulnerable to the weapons of ordinary warfare. It is that impassible, unextinguishable enemy of mere violence and arbitrary rule, which, like Milton's angels,

> "Vital in every part, ...
> Cannot, but by annihilating, die."

Until this be propitiated or satisfied, it is vain for power to talk either of triumphs or of repose. No matter what fields are desolated, what fortresses surrendered, what armies subdued, or what provinces overrun. In the history of the year that has passed by us, and in the instance of unhappy Spain, we have seen the vanity of all triumphs in a cause which violates the

general sense of justice of the civilized world. It is nothing, that the troops of France have passed from the Pyrenees to Cadiz; it is nothing that an unhappy and prostrate nation has fallen before them; it is nothing that arrests, and confiscation, and execution, sweep away the little remnant of national resistance. There is an enemy that still exists to check the glory of these triumphs. It follows the conqueror back to the very scene of his ovations; it calls upon him to take notice that Europe, though silent, is yet indignant; it shows him that the sceptre of his victory is a barren sceptre; that it shall confer neither joy nor honor, but shall moulder to dry ashes in his grasp. In the midst of his exultation, it pierces his ear with the cry of injured justice; it denounces against him the indignation of an enlightened and civilized age; it turns to bitterness the cup of his rejoicing, and wounds him with the sting which belongs to the consciousness of having outraged the opinion of mankind.

In my opinion, Sir, the Spanish nation is now nearer, not only in point of time, but in point of circumstance, to the acquisition of a regulated government, than at the moment of the French invasion. Nations must, no doubt, undergo these trials in their progress to the establishment of free institutions. The very trials benefit them, and render them more capable both of obtaining and of enjoying the object which they seek.

I shall not detain the committee, Sir, by laying before it any statistical, geographical, or commercial, account of Greece. I have no knowledge on these subjects which is not common to all. It is universally admitted, that, within the last thirty or forty years, the condition of Greece has been greatly improved. Her marine is at present respectable, containing the best sailors in the Mediterranean, better even, in that sea, than our own, as more accustomed to the long quarantines and other regulations which prevail in its ports. The number of her seamen has been estimated as high as 50,000, but I suppose that estimate must be much too large. She has, probably, 150,000 tons of shipping. It is not easy to ascertain the amount of the Greek population. The Turkish government does not trouble itself with any of the calculations of political economy, and there has never been such a thing as an accurate census, probably, in any

part of the Turkish empire. In the absence of all official information, private opinions widely differ. By the tables which have been communicated, it would seem that there are 2,400,000 Greeks in Greece proper and the islands; an amount, as I am inclined to think, somewhat overrated. There are, probably, in the whole of European Turkey, 5,000,000 Greeks, and 2,000,000 more in the Asiatic dominions of that power.

The moral and intellectual progress of this numerous population, under the horrible oppression which crushes it, has been such as may well excite regard. Slaves, under barbarous masters, the Greeks have still aspired after the blessings of knowledge and civilization. Before the breaking out of the present revolution, they had established schools, and colleges, and libraries, and the press. Wherever, as in Scio, owing to particular circumstances, the weight of oppression was mitigated, the natural vivacity of the Greeks, and their aptitude for the arts, were evinced. Though certainly not on an equality with the civilized and Christian states of Europe, — and how is it possible, under such oppression as they endured, that they should be? — they yet furnished a striking contrast with their Tartar masters. It has been well said, that it is not easy to form a just conception of the nature of the despotism exercised over them. Conquest and subjugation, as known among European states, are inadequate modes of expression by which to denote the dominion of the Turks. A conquest in the civilized world is generally no more than an acquisition of a new dominion to the conquering country. It does not imply a never-ending bondage imposed upon the conquered, a perpetual mark, — an opprobrious distinction between them and their masters; a bitter and unending persecution of their religion; an habitual violation of their rights of person and property, and the unrestrained indulgence towards them of every passion which belongs to the character of a barbarous soldiery. Yet such is the state of Greece. The Ottoman power over them, obtained originally by the sword, is constantly preserved by the same means. Wherever it exists, it is a mere military power. The religious and civil code of the state being both fixed in the Koran, and equally the object of an ignorant and furious faith, have been found equally incapable of change. "The Turk," it has been said, "has been *encamped* in Europe for four centuries." He has hardly any more partici-

pation in European manners, knowledge, and arts, than when he crossed the Bosphorus. But this is not the worst. The power of the empire is fallen into anarchy, and as the principle which belongs to the head belongs also to the parts, there are as many despots as there are pachas, beys, and viziers. Wars are almost perpetual between the Sultan and some rebellious governor of a province; and in the conflict of these despotisms, the people are necessarily ground between the upper and the nether millstone. In short, the Christian subjects of the Sublime Porte feel daily all the miseries which flow from despotism, from anarchy, from slavery, and from religious persecution. If any thing yet remains to heighten such a picture, let it be added, that every office in the government is not only actually, but professedly, venal; the pachalics, the vizierates, the cadiships, and whatsoever other denomination may denote the depositary of power. In the whole world, Sir, there is no such oppression felt as by the Christian Greeks. In various parts of India, to be sure, the government is bad enough; but then it is the government of barbarians over barbarians, and the feeling of oppression is, of course, not so keen. There the oppressed are perhaps not better than their oppressors; but in the case of Greece, there are millions of Christian men, not without knowledge, not without refinement, not without a strong thirst for all the pleasures of civilized life, trampled into the very earth, century after century, by a pillaging, savage, relentless soldiery. Sir, the case is unique. There exists, and has existed, nothing like it. The world has no such misery to show; there is no case in which Christian communities can be called upon with such emphasis of appeal.

But I have said enough, Mr. Chairman, indeed I need have said nothing, to satisfy the House, that it must be some new combination of circumstances, or new views of policy in the cabinets of Europe, which have caused this interesting struggle not merely to be regarded with indifference, but to be marked with opprobrium. The very statement of the case, as a contest between the Turks and Greeks, sufficiently indicates what must be the feeling of every individual, and every government, that is not biased by a particular interest, or a particular feeling, to disregard the dictates of justice and humanity.

And now, Sir, what has been the conduct pursued by the Al-

lied Powers in regard to this contest? When the revolution broke out, the sovereigns were assembled in congress at Laybach; and the papers of that assembly sufficiently manifest their sentiments. They proclaimed their abhorrence of those "criminal combinations which had been formed in the eastern parts of Europe"; and, although it is possible that this denunciation was aimed, more particularly, at the disturbances in the provinces of Wallachia and Moldavia, yet no exception is made, from its general terms, in favor of those events in Greece which were properly the commencement of her revolution, and which could not but be well known at Laybach, before the date of these declarations. Now it must be remembered, that Russia was a leading party in this denunciation of the efforts of the Greeks to achieve their liberation; and it cannot but be expected by Russia, that the world should also remember what part she herself has heretofore acted in the same concern. It is notorious, that within the last half-century she has again and again excited the Greeks to rebellion against the Porte, and that she has constantly kept alive in them the hope that she would, one day, by her own great power, break the yoke of their oppressor. Indeed, the earnest attention with which Russia has regarded Greece goes much farther back than to the time I have mentioned. Ivan the Third, in 1482, having espoused a Grecian princess, heiress of the last Greek Emperor, discarded St. George from the Russian arms, and adopted the Greek two-headed black eagle, which has continued in the Russian arms to the present day. In virtue of the same marriage, the Russian princes claim the Greek throne as their inheritance.

Under Peter the Great, the policy of Russia developed itself more fully. In 1696, he rendered himself master of Azof, and in 1698, obtained the right to pass the Dardanelles, and to maintain, by that route, commercial intercourse with the Mediterranean. He had emissaries throughout Greece, and particularly applied himself to gain the clergy. He adopted the *Labarum* of Constantine, "In hoc signo vinces"; and medals were struck, with the inscription, "Petrus I. Russo-Græcorum Imperator." In whatever new direction the principles of the Holy Alliance may now lead the politics of Russia, or whatever course she may suppose Christianity now preseribes to her, in regard to the Greek cause, the time has been when she professed to be con-

tending for that cause, as identified with Christianity. The white banner under which the soldiers of Peter the First usually fought, bore, as its inscription, "In the name of the Prince, and for our country." Relying on the aid of the Greeks, in his war with the Porte, he changed the white flag to red, and displayed on it the words, "In the name of God, and for Christianity." The unfortunate issue of this war is well known. Though Anne and Elizabeth, the successors of Peter, did not possess his active character, they kept up a constant communication with Greece, and held out hopes of restoring the Greek empire. Catharine the Second, as is well known, excited a general revolt in 1769. A Russian fleet appeared in the Mediterranean, and a Russian army was landed in the Morea. The Greeks in the end were disgusted at being expected to take an oath of allegiance to Russia, and the Empress was disgusted because they refused to take it. In 1774, peace was signed between Russia and the Porte, and the Greeks of the Morea were left to their fate. By this treaty the Porte acknowledged the independence of the khan of the Crimea; a preliminary step to the acquisition of that country by Russia. It is not unworthy of remark, as a circumstance which distinguished this from most other diplomatic transactions, that it conceded to the cabinet of St. Petersburg the right of intervention in the interior affairs of Turkey, in regard to whatever concerned the religion of the Greeks. The cruelties and massacres that happened to the Greeks after the peace between Russia and the Porte, notwithstanding the general pardon which had been stipulated for them, need not now be recited. Instead of retracing the deplorable picture, it is enough to say, that in this respect the past is justly reflected in the present. The Empress soon after invaded and conquered the Crimea, and on one of the gates of Kerson, its capital, caused to be inscribed, "The road to Byzantium." The present Emperor, on his accession to the throne, manifested an intention to adopt the policy of Catharine the Second as his own, and the world has not been right in all its suspicions, if a project for the partition of Turkey did not form a part of the negotiations of Napoleon and Alexander at Tilsit.

All this course of policy seems suddenly to be changed. Turkey is no longer regarded, it would appear, as an object of partition or acquisition, and Greek revolts have all at once become

according to the declaration of Laybach, "criminal combinations." The recent congress at Verona exceeded its predecessor at Laybach in its denunciations of the Greek struggle. In the circular of the 14th of December, 1822, it declared the Grecian resistance to the Turkish power to be rash and culpable, and lamented that "the firebrand of rebellion had been thrown into the Ottoman empire." This rebuke and crimination we know to have proceeded on those settled principles of conduct which the Continental powers had prescribed for themselves. The sovereigns saw, as well as others, the real condition of the Greeks; they knew as well as others that it was most natural and most justifiable, that they should endeavor, at whatever hazard, to change that condition. They knew that they themselves, or at least one of them, had more than once urged the Greeks to similar efforts; that they themselves had thrown the same firebrand into the midst of the Ottoman empire. And yet, so much does it seem to be their fixed object to discountenance whatsoever threatens to disturb the actual government of any country, that, Christians as they were, and allied, as they professed to be, for purposes most important to human happiness and religion, they have not hesitated to declare to the world that they have wholly forborne to exercise any compassion to the Greeks, simply because they thought that they saw, in the struggles of the Morea, the sign of revolution. This, then, is coming to a plain, practical result. The Grecian revolution has been discouraged, discountenanced, and denounced, solely because it *is* a revolution. Independent of all inquiry into the reasonableness of its causes or the enormity of the oppression which produced it; regardless of the peculiar claims which Greece possesses upon the civilized world; and regardless of what has been their own conduct towards her for a century; regardless of the interest of the Christian religion, — the sovereigns at Verona seized upon the case of the Greek revolution as one above all others calculated to illustrate the fixed principles of their policy. The abominable rule of the Porte on one side, the value and the sufferings of the Christian Greeks on the other, furnished a case likely to convince even an incredulous world of the sincerity of the professions of the Allied Powers. They embraced the occasion with apparent ardor: and the world, I trust, is satisfied.

We see here, Mr. Chairman, the direct and actual application of that system which I have attempted to describe. We see it in the very case of Greece. We learn, authentically and indisputably, that the Allied Powers, holding that all changes in legislation and administration ought to proceed from kings alone, were wholly inexorable to the sufferings of the Greeks, and entirely hostile to their success. Now it is upon this practical result of the principle of the Continental powers that I wish this House to intimate its opinion. The great question is a question of principle. Greece is only the signal instance of the application of that principle. If the principle be right, if we esteem it conformable to the law of nations, if we have nothing to say against it, or if we deem ourselves unfit to express an opinion on the subject, then, of course, no resolution ought to pass. If, on the other hand, we see in the declarations of the Allied Powers principles not only utterly hostile to our own free institutions, but hostile also to the independence of all nations, and altogether opposed to the improvement of the condition of human nature; if, in the instance before us, we see a most striking exposition and application of those principles, and if we deem our opinions to be entitled to any weight in the estimation of mankind, — then I think it is our duty to adopt some such measure as the proposed resolution.

It is worthy of observation, Sir, that as early as July, 1821, Baron Strogonoff, the Russian minister at Constantinople, represented to the Porte, that, if the undistinguished massacres of the Greeks, both of such as were in open resistance and of those who remained patient in their submission were continued, and should become a settled habit, they would give just cause of war against the Porte to all Christian states. This was in 1821.* It was followed, early in the next year, by that indescribable enormity, that appalling monument of barbarian cruelty, the destruction of Scio; a scene I shall not attempt to describe; a scene from which human nature shrinks shuddering away; a scene having hardly a parallel in the history of fallen man. This scene, too, was quickly followed by the massacres in Cyprus; and all these things were perfectly known to the Christian powers assembled at Verona. Yet these powers, in-

* Annual Register for 1821, p. 251.

stead of acting upon the case supposed by Baron Strogonoff and which one would think had been then fully made out, — instead of being moved by any compassion for the sufferings of the Greeks, — these powers, these Christian powers, rebuke their gallantry and insult their sufferings by accusing them of "throwing a fireband into the Ottoman empire." Such, Sir, appear to me to be the principles on which the Continental powers of Europe have agreed hereafter to act; and this, an eminent instance of the application of those principles.

I shall not detain the committee, Mr. Chairman, by any attempt to recite the events of the Greek struggle up to the present time. Its origin may be found, doubtless, in that improved state of knowledge which, for some years, has been gradually taking place in that country. The emancipation of the Greeks has been a subject frequently discussed in modern times. They themselves are represented as having a vivid remembrance of the distinction of their ancestors, not unmixed with an indignant feeling that civilized and Christian Europe should not ere now have aided them in breaking their intolerable fetters.

In 1816 a society was founded in Vienna for the encouragement of Grecian literature. It was connected with a similar institution at Athens, and another in Thessaly, called the "Gymnasium of Mount Pelion." The treasury and general office of the institution were established at Munich. No political object was avowed by these institutions, probably none contemplated. Still, however, they had their effect, no doubt, in hastening that condition of things in which the Greeks felt competent to the establishment of their independence. Many young men have been for years annually sent to the universities in the western states of Europe for their education; and, after the general pacification of Europe, many military men, discharged from other employment, were ready to enter even into so unpromising a service as that of the revolutionary Greeks.

In 1820, war commenced between the Porte and Ali, the well-known Pacha of Albania. Differences existed also with Persia and with Russia. In this state of things, at the beginning of 1821, an insurrection broke out in Moldavia, under the direction of Alexander Ypsilanti, a well-educated soldier, who had been major-general in the Russian service. From his character, and the number of those who seemed inclined to join him, he was

supposed to be countenanced by the court of St. Petersburg. This, however, was a great mistake, which the Emperor, then at Laybach, took an early opportunity to rectify. The Turkish government was alarmed at these occurrences in the northern provinces of European Turkey, and caused search to be made of all vessels entering the Black Sea, lest arms or other military means should be sent in that manner to the insurgents. This proved inconvenient to the commerce of Russia, and caused some unsatisfactory correspondence between the two powers. It may be worthy of remark, as an exhibition of national character, that, agitated by these appearances of intestine commotion, the Sultan issued a proclamation, calling on all true Mussulmans to renounce the pleasures of social life, to prepare arms and horses, and to return to the manner of their ancestors, the life of the plains. The Turk seems to have thought that he had, at last, caught something of the dangerous contagion of European civilization, and that it was necessary to reform his habits, by recurring to the original manners of military roving barbarians.

It was about this time, that is to say, at the commencement of 1821, that the revolution burst out in various parts of Greece and the isles. Circumstances, certainly, were not unfavorable to the movement, as one portion of the Turkish army was employed in the war against Ali Pacha in Albania, and another part in the provinces north of the Danube. The Greeks soon possessed themselves of the open country of the Morea, and drove their enemy into the fortresses. Of these, that of Tripolitza, with the city, fell into their hands, in the course of the summer. Having after these first movements obtained time to breathe, it became, of course, an early object to establish a government. For this purpose delegates of the people assembled, under that name which describes the assembly in which we ourselves sit, that name which "freed the Atlantic," a *Congress*. A writer, who undertakes to render to the civilized world that service which was once performed by Edmund Burke, I mean the compiler of the English Annual Register, asks, by what authority this assembly could call itself a Congress. Simply, Sir, by the same authority by which the people of the United States have given the same name to their own legislature. We, at least, should be naturally inclined to think, not only as far as

names, but things also, are concerned, that the Greeks could hardly have begun their revolution under better auspices; since they have endeavored to render applicable to themselves the general principles of our form of government, as well as its name. This constitution went into operation at the commencement of the next year. In the mean time, the war with Ali Pacha was ended, he having surrendered, and being afterwards assassinated, by an instance of treachery and perfidy, which, if it had happened elsewhere than under the government of the Turks, would have deserved notice. The negotiation with Russia, too, took a turn unfavorable to the Greeks. The great point upon which Russia insisted, beside the abandonment of the measure of searching vessels bound to the Black Sea, was, that the Porte should withdraw its armies from the neighborhood of the Russian frontiers; and the immediate consequence of this, when effected, was to add so much more to the disposable force ready to be employed against the Greeks. These events seemed to have left the whole force of the Ottoman empire, at the commencement of 1822, in a condition to be employed against the Greek rebellion; and, accordingly, very many anticipated the immediate destruction of the cause. The event, however, was ordered otherwise. Where the greatest effort was made, it was met and defeated. Entering the Morea with an army which seemed capable of bearing down all resistance, the Turks were nevertheless defeated and driven back, and pursued beyond the isthmus, within which, as far as it appears, from that time to the present, they have not been able to set their foot.

It was in April of this year that the destruction of Scio took place. That island, a sort of appanage of the Sultana mother, enjoyed many privileges peculiar to itself. In a population of 130,000 or 140,000, it had no more than 2,000 or 3,000 Turks; indeed, by some accounts, not near as many. The absence of these ruffian masters had in some degree allowed opportunity for the promotion of knowledge, the accumulation of wealth, and the general cultivation of society. Here was the seat of modern Greek literature; here were libraries, printing-presses, and other establishments, which indicate some advancement in refinement and knowledge. Certain of the inhabitants of Samos, it would seem, envious of this comparative happiness of Scio, landed upon the island in an irregular multitude, for the

purpose of compelling its inhabitants to make common cause with their countrymen against their oppressors. These, being joined by the peasantry, marched to the city and drove the Turks into the castle. The Turkish fleet, lately reinforced from Egypt, happened to be in the neighboring seas, and, learning these events, landed a force on the island of fifteen thousand men. There was nothing to resist such an army. These troops immediately entered the city and began an indiscriminate massacre. The city was fired; and in four days the fire and sword of the Turk rendered the beautiful Scio a clotted mass of blood and ashes. The details are too shocking to be recited. Forty thousand women and children, unhappily saved from the general destruction, were afterwards sold in the market of Smyrna, and sent off into distant and hopeless servitude. Even on the wharves of our own cities, it has been said, have been sold the utensils of those hearths which now exist no longer. Of the whole population which I have mentioned, not above nine hundred persons were left living upon the island. I will only repeat, Sir, that these tragical scenes were as fully known at the Congress of Verona, as they are now known to us; and it is not too much to call on the powers that constituted that congress, in the name of conscience and in the name of humanity, to tell us if there be nothing even in these unparalleled excesses of Turkish barbarity to excite a sentiment of compassion; nothing which they regard as so objectionable as even the very idea of popular resistance to power.

The events of the year which has just passed by, as far as they have become known to us, have been even more favorable to the Greeks than those of the year preceding. I omit all details, as being as well known to others as to myself. Suffice it to say, that with no other enemy to contend with, and no diversion of his force to other objects, the Porte has not been able to carry the war into the Morea; and that, by the last accounts, its armies were acting defensively in Thessaly. I pass over, also, the naval engagements of the Greeks, although that is a mode of warfare in which they are calculated to excel, and in which they have already performed actions of such distinguished skill and bravery, as would draw applause upon the best mariners in the world. The present state of the war would seem to be, that the Greeks possess the whole of the Morea, with the exception

of the three fortresses of Patras, Coron, and Modon; all Candia, but one fortress; and most of the other islands. They possess the citadel of Athens, Missolonghi, and several other places in Livadia. They have been able to act on the offensive, and to carry the war beyond the isthmus. There is no reason to believe their marine is weakened; more probably, it is strengthened. But, what is most important of all, they have obtained time and experience. They have awakened a sympathy throughout Europe and throughout America; and they have formed a government which seems suited to the emergency of their condition.

Sir, they have done much. It would be great injustice to compare their achievements with our own. We began our Revolution, already possessed of government, and, comparatively, of civil liberty. Our ancestors had from the first been accustomed in a great measure to govern themselves. They were familiar with popular elections and legislative assemblies, and well acquainted with the general principles and practice of free governments. They had little else to do than to throw off the paramount authority of the parent state. Enough was still left, both of law and of organization, to conduct society in its accustomed course, and to unite men together for a common object. The Greeks, of course, could act with little concert at the beginning; they were unaccustomed to the exercise of power, without experience, with limited knowledge, without aid, and surrounded by nations which, whatever claims the Greeks might seem to have upon them, have afforded them nothing but discouragement and reproach. They have held out, however, for three campaigns; and that, at least, is something. Constantinople and the northern provinces have sent forth thousands of troops; — they have been defeated. Tripoli, and Algiers, and Egypt, have contributed their marine contingents; — they have not kept the ocean. Hordes of Tartars have crossed the Bosphorus; — they have died where the Persians died. The powerful monarchies in the neighborhood have denounced their cause and admonished them to abandon it and submit to their fate. They have answered them, that, although two hundred thousand of their countrymen have offered up their lives, there yet remain lives to offer; and that it is the determination of *all*, "yes, of ALL," to persevere until they shall have established their

liberty, or until the power of their oppressors shall have relieved them from the burden of existence.

It may now be asked, perhaps, whether the expression of our own sympathy, and that of the country, may do them good? I hope it may. It may give them courage and spirit, it may assure them of public regard, teach them that they are not wholly forgotten by the civilized world, and inspire them with constancy in the pursuit of their great end. At any rate, Sir, it appears to me that the measure which I have proposed is due to our own character, and called for by our own duty. When we shall have discharged that duty, we may leave the rest to the disposition of Providence.

I do not see how it can be doubted that this measure is entirely *pacific*. I profess my inability to perceive that it has any possible tendency to involve our neutral relations. If the resolution pass, it is not of necessity to be immediately acted on. It will not be acted on at all, unless, in the opinion of the President, a proper and safe occasion for acting upon it shall arise. If we adopt the resolution to-day, our relations with every foreign state will be to-morrow precisely what they now are. The resolution will be sufficient to express our sentiments on the subjects to which I have adverted. Useful for that purpose, it can be mischievous for no purpose. If the topic were properly introduced into the message, it cannot be improperly introduced into discussion in this House. If it were proper, which no one doubts, for the President to express his opinions upon it, it cannot, I think, be improper for us to express ours. The only certain effect of this resolution is to signify, in a form usual in bodies constituted like this, our approbation of the general sentiment of the message. Do we wish to withhold that approbation? The resolution confers on the President no new power, nor does it enjoin on him the exercise of any new duty; nor does it hasten him in the discharge of any existing duty.

I cannot imagine that this resolution can add any thing to those excitements which it has been supposed, I think very causelessly, might possibly provoke the Turkish government to acts of hostility. There is already the message, expressing the hope of success to the Greeks and disaster to the Turks, in a much stronger manner than is to be implied from the terms of this resolution. There is the correspondence between the Sec-

retary of State and the Greek Agent in London, already made public, in which similar wishes are expressed, and a continuance of the correspondence apparently invited. I might add to this, the unexampled burst of feeling which this cause has called forth from all classes of society, and the notorious fact of pecuniary contributions made throughout the country for its aid and advancement. After all this, whoever can see cause of danger to our pacific relations from the adoption of this resolution has a keener vision than I can pretend to. Sir, there is no augmented danger; there is no danger. The question comes at last to this, whether, on a subject of this sort, this House holds an opinion which is worthy to be expressed.

Even suppose, Sir, an agent or commissioner were to be immediately sent, — a measure which I myself believe to be the proper one, — there is no breach of neutrality, nor any just cause of offence. Such an agent, of course, would not be accredited; he would not be a public minister. The object would be inquiry and information; inquiry which we have a right to make, information which we are interested to possess. If a dismemberment of the Turkish empire be taking place, or has already taken place; if a new state be rising, or be already risen, in the Mediterranean, — who can doubt, that, without any breach of neutrality, we may inform ourselves of these events for the government of our own concerns? The Greeks have declared the Turkish coasts in a state of blockade; may we not inform ourselves whether this blockade be *nominal* or *real?* and, of course, whether it shall be regarded or disregarded? The greater our trade may happen to be with Smyrna, a consideration which seems to have alarmed some gentlemen, the greater is the reason, in my opinion, why we should seek to be accurately informed of those events which may affect its safety. It seems to me impossible, therefore, for any reasonable man to imagine that this resolution can expose us to the resentment of the Sublime Porte.

As little reason is there for fearing its consequences upon the conduct of the Allied Powers. They may, very naturally, dislike our sentiments upon the subject of the Greek revolution: but what those sentiments are they will much more explicitly learn in the President's message than in this resolution. They might, indeed, prefer that we should express no dissent from the

doctrines which they have avowed, and the application which they have made of those doctrines to the case of Greece. But I trust we are not disposed to leave them in any doubt as to our sentiments upon these important subjects. They have expressed their opinions, and do not call that expression of opinion an interference; in which respect they are right, as the expression of opinion in such cases is not such an interference as would justify the Greeks in considering the powers at war with them. For the same reason, any expression which we may make of different principles and different sympathies is no interference. No one would call the President's message an interference; and yet it is much stronger in that respect than this resolution. If either of them could be construed to be an interference, no doubt it would be improper, at least it would be so according to my view of the subject; for the very thing which I have attempted to resist in the course of these observations is the right of foreign interference. But neither the message nor the resolution has that character. There is not a power in Europe which can suppose, that, in expressing our opinions on this occasion, we are governed by any desire of aggrandizing ourselves or of injuring others. We do no more than to maintain those established principles in which we have an interest in common with other nations, and to resist the introduction of new principles and new rules, calculated to destroy the relative independence of states, and particularly hostile to the whole fabric of our government.

I close, then, Sir, with repeating, that the object of this resolution is to avail ourselves of the interesting occasion of the Greek revolution to make our protest against the doctrines of the Allied Powers, both as they are laid down in principle and as they are applied in practice. I think it right, too, Sir, not to be unseasonable in the expression of our regard, and, as far as that goes, in a manifestation of our sympathy with a long oppressed and now struggling people. I am not of those who would, in the hour of utmost peril, withhold such encouragement as might be properly and lawfully given, and, when the crisis should be past, overwhelm the rescued sufferer with kindness and caresses. The Greeks address the civilized world with a pathos not easy to be resisted. They invoke our favor by more moving considerations than can well belong to the condition of

any other people. They stretch out their arms to the Christian communities of the earth, beseeching them, by a generous recollection of their ancestors, by the consideration of their desolated and ruined cities and villages, by their wives and children sold into an accursed slavery, by their blood, which they seem willing to pour out like water, by the common faith, and in the name, which unites all Christians, that they would extend to them at least some token of compassionate regard.

THE TARIFF.*

At an early period of the session of Congress of 1823–24 a bill was introduced into the House of Representatives to amend the several acts laying duties on imports. The object of the bill was a comprehensive revision of the existing laws, with a view to the extension of the protective system. The bill became the subject of a protracted debate, in which much of the talent of the House on both sides was engaged. Mr. Webster took an active part in the discussion, and spoke upon many of the details of the bill while it remained in the committee of the whole house on the state of the Union. Several objectionable provisions were removed, and various amendments were introduced upon his motion; and it was a matter of regret to him, as seen in the following speech, that the friends of the bill were not able or willing to bring it into a form in which, as a whole, he could give it his support. On the 30th and 31st of March, Mr. Clay, Speaker of the House, addressed the committee of the whole, at length and with great ability, on the general principles of the bill; and he was succeeded by Mr. Webster, on the 1st and 2d of April, in the following speech.

Mr. Chairman, — I will avail myself of the present occasion to make some remarks on certain principles and opinions which have been recently advanced, and on those considerations which, in my judgment, ought to govern us in deciding upon the several and respective parts of this very important and complex measure. I can truly say that this is a painful duty. I deeply regret the necessity which is likely to be imposed upon me of giving a general affirmative or negative vote on the whole of

* A Speech delivered on the 1st and 2d of April, 1824, in the House of Representatives, on the Bill for revising the several Acts imposing Duties on Certain Articles imported into the United States.

the bill. I cannot but think this mode of proceeding liable to great objections. It exposes both those who support and those who oppose the measure to very unjust and injurious misapprehensions. There may be good reasons for favoring some of the provisions of the bill, and equally strong reasons for opposing others; and these provisions do not stand to each other in the relation of principal and incident. If that were the case, those who are in favor of the principal might forego their opinions upon incidental and subordinate provisions. But the bill proposes enactments entirely distinct and different from one another in character and tendency. Some of its clauses are intended merely for revenue; and of those which regard the protection of home manufactures, one part stands upon very different grounds from those of other parts. So that probably every gentleman who may ultimately support the bill will vote for much which his judgment does not approve; and those who oppose it will oppose something which they would very gladly support.

Being intrusted with the interests of a district highly commercial, and deeply interested in manufactures also, I wish to state my opinions on the present measure, not as on a whole, for it has no entire and homogeneous character, but as on a collection of different enactments, some of which meet my approbation and some of which do not.

And allow me, Sir, in the first place, to state my regret, if indeed I ought not to express a warmer sentiment, at the names or designations which Mr. Speaker* has seen fit to adopt for the purpose of describing the advocates and the opposers of the present bill. It is a question, he says, between the friends of an "American policy" and those of a "foreign policy." This, Sir, is an assumption which I take the liberty most directly to deny. Mr. Speaker certainly intended nothing invidious or derogatory to any part of the House by this mode of denominating friends and enemies. But there is power in names, and this manner of distinguishing those who favor and those who oppose particular measures may lead to inferences to which no member of the House can submit. It may imply that there is a more exclusive and peculiar regard to American interests in one class of opin-

* Mr. Clay

ions than in another. Such an implication is to be resisted and repelled. Every member has a right to the presumption, that he pursues what he believes to be the interest of his country with as sincere a zeal as any other member. I claim this in my own case; and while I shall not, for any purpose of description or convenient arrangement, use terms which may imply any disrespect to other men's opinions, much less any imputation upon other men's motives, it is my duty to take care that the use of such terms by others be not, against the will of those who adopt them, made to produce a false impression.

Indeed, Sir, it is a little astonishing, if it seemed convenient to Mr. Speaker, for the purposes of distinction, to make use of the terms "American policy" and "foreign policy," that he should not have applied them in a manner precisely the reverse of that in which he has in fact used them. If names are thought necessary, it would be well enough, one would think, that the name should be in some measure descriptive of the thing; and since Mr. Speaker denominates the policy which he recommends "a new policy in this country"; since he speaks of the present measure as a new era in our legislation; since he professes to invite us to depart from our accustomed course, to instruct ourselves by the wisdom of others, and to adopt the policy of the most distinguished foreign states, — one is a little curious to know with what propriety of speech this imitation of other nations is denominated an "American policy," while, on the contrary, a preference for our own established system, as it now actually exists and always has existed, is called a "foreign policy." This favorite American policy is what America has never tried; and this odious foreign policy is what, as we are told, foreign states have never pursued. Sir, that is the truest American policy which shall most usefully employ American capital and American labor, and best sustain the whole population. With me it is a fundamental axiom, it is interwoven with all my opinions, that the great interests of the country are united and inseparable; that agriculture, commerce, and manufactures will prosper together or languish together; and that all legislation is dangerous which proposes to benefit one of these without looking to consequences which may fall on the others.

Passing from this, Sir, I am bound to say that Mr. Speaker began his able and impressive speech at the proper point of in-

quiry; I mean the present state and condition of the country; although I am so unfortunate, or rather although I am so happy, as to differ from him very widely in regard to that condition. I dissent entirely from the justice of that picture of distress which he has drawn. I have not seen the reality, and know not where it exists. Within my observation, there is no cause for so gloomy and terrifying a representation. In respect to the New England States, with the condition of which I am of course best acquainted, the present appears to me a period of very general prosperity. Not, indeed, a time for sudden acquisition and great profits, not a day of extraordinary activity and successful speculation. There is no doubt a considerable depression of prices, and, in some degree, a stagnation of business. But the case presented by Mr. Speaker was not one of *depression*, but of *distress;* of universal, pervading, intense distress, limited to no class and to no place. We are represented as on the very verge and brink of national ruin. So far from acquiescing in these opinions, I believe there has been no period in which the general prosperity was better secured, or rested on a more solid foundation. As applicable to the Eastern States, I put this remark to their representatives, and ask them if it is not true. When has there been a time in which the means of living have been more accessible and more abundant? When has labor been rewarded, I do not say with a larger, but with a more certain success? Profits, indeed, are low; in some pursuits of life, which it is not proposed to benefit, but to *burden*, by this bill, very low. But still I am unacquainted with any proofs of extraordinary distress. What, indeed, are the general indications of the state of the country? There is no famine nor pestilence in the land, nor war, nor desolation. There is no writhing under the burden of taxation. The means of subsistence are abundant; and at the very moment when the miserable condition of the country is asserted, it is admitted that the wages of labor are high in comparison with those of any other country. A country, then, enjoying a profound peace, perfect civil liberty, with the means of subsistence cheap and abundant, with the reward of labor sure, and its wages higher than anywhere else, cannot be represented as in gloom, melancholy, and distress, but by the effort of extraordinary powers of tragedy.

Even if, in judging of this question, we were to regard only

those proofs to which we have been referred, we shall probably come to a conclusion somewhat different from that which has been drawn. Our exports, for example, although certainly less than in some years, were not, last year, so much below an average formed upon the exports of a series of years, and putting those exports at a fixed value, as might be supposed. The value of the exports of agricultural products, of animals, of the products of the forest and of the sea, together with gunpowder, spirits, and sundry unenumerated articles, amounted in the several years to the following sums, viz.: —

In 1790,	$27,716,152
1804,	33,842,316
1807,	38,465,854

Coming up now to our own times, and taking the exports of the years 1821, 1822, and 1823, of the same articles and products, at the same prices, they stand thus: —

In 1821,	$45,643,175
1822,	48,782,295
1823,	55,863,491

Mr. Speaker has taken the very extraordinary year of 1803, and, adding to the exportation of that year what he thinks ought to have been a just augmentation, in proportion to the increase of our population, he swells the result to a magnitude, which, when compared with our actual exports, would exhibit a great deficiency. But is there any justice in this mode of calculation? In the first place, as before observed, the year 1803 was a year of extraordinary exportation. By reference to the accounts, that of the article of flour, for example, there was an export that year of thirteen hundred thousand barrels; but the very next year it fell to eight hundred thousand, and the next year to seven hundred thousand. In the next place, there never was any reason to expect that the increase of our exports of agricultural products would keep pace with the increase of our population. That would be against all experience. It is, indeed, most desirable, that there should be an augmented demand for the products of agriculture; but, nevertheless, the official returns of our exports do not show that absolute want of all foreign market which has been so strongly stated.

But there are other means by which to judge of the general

condition of the people. The quantity of the means of subsistence consumed, or, to make use of a phraseology better suited to the condition of our own people, the quantity of the comforts of life enjoyed, is one of those means. It so happens, indeed, that it is not so easy in this country as elsewhere to ascertain facts of this sort with accuracy. Where most of the articles of subsistence and most of the comforts of life are taxed, there is, of course, great facility in ascertaining, from official statements, the amount of consumption. But in this country, most fortunately, the government neither knows, nor is concerned to know, the annual consumption; and estimates can only be formed in another mode, and in reference only to a few articles. Of these articles, tea is one. It is not quite a luxury, and yet is something above the absolute necessaries of life. Its consumption, therefore, will be diminished in times of adversity, and augmented in times of prosperity. By deducting the annual export from the annual import, and taking a number of years together, we may arrive at a probable estimate of consumption. The average of eleven years, from 1790 to 1800, inclusive, will be found to be two millions and a half of pounds. From 1801 to 1812, inclusive, the average was three millions seven hundred thousand; and the average of the last three years, to wit, 1821, 1822, and 1823, was five millions and a half. Having made a just allowance for the increase of our numbers, we shall still find, I think, from these statements, that there is no distress which has limited our means of subsistence and enjoyment.

In forming an opinion of the degree of general prosperity, we may regard, likewise, the progress of internal improvements, the investment of capital in roads, bridges, and canals. All these prove a balance of income over expenditure; they afford evidence that there is a surplus of profits, which the present generation is usefully vesting for the benefit of the next. It cannot be denied, that, in this particular, the progress of the country is steady and rapid.

We may look, too, to the sums expended for education. Are our colleges deserted? Do fathers find themselves less able than usual to educate their children? It will be found, I imagine, that the amount paid for the purpose of education is constantly increasing, and that the schools and colleges were never more full than at the present moment. I may add, that the endow-

ment of public charities, the contributions to objects of general benevolence, whether foreign or domestic, the munificence of individuals towards whatever promises to benefit the community, are all so many proofs of national prosperity. And, finally, there is no defalcation of revenue, no pressure of taxation.

The general result, therefore, of a fair examination of the present condition of things, seems to me to be, that there is a considerable depression of prices, and curtailment of profit; and in some parts of the country, it must be admitted, there is a great degree of pecuniary embarrassment, arising from the difficulty of paying debts which were contracted when prices were high. With these qualifications, the general state of the country may be said to be prosperous; and these are not sufficient to give to the whole face of affairs any appearance of general distress.

Supposing the evil, then, to be a depression of prices, and a partial pecuniary pressure, the next inquiry is into the causes of that evil; and it appears to me that there are several; and in this respect, I think, too much has been imputed by Mr. Speaker to the single cause of the diminution of exports. Connected, as we are, with all the commercial nations of the world, and having observed great changes to take place elsewhere, we should consider whether the causes of those changes have not reached us, and whether we are not suffering by the operation of them, in common with others. Undoubtedly, there has been a great fall in the price of all commodities throughout the commercial world, in consequence of the restoration of a state of peace. When the Allies entered France in 1814, prices rose astonishingly fast, and very high. Colonial produce, for instance, in the ports of this country, as well as elsewhere, sprung up suddenly from the lowest to the highest extreme. A new and vast demand was created for the commodities of trade. These were the natural consequences of the great political changes which then took place in Europe.

We are to consider, too, that our own war created new demand, and that a government expenditure of twenty-five or thirty million dollars a year had the usual effect of enhancing prices. We are obliged to add, that the paper issues of our banks carried the same effect still further. A depreciated currency existed in a great part of the country; depreciated to such an extent, that, at one time, exchange between the centre and the

North was as high as twenty per cent. The Bank of the United States was instituted to correct this evil; but, for causes which it is not necessary now to enumerate, it did not for some years bring back the currency of the country to a sound state. This depreciation of the circulating currency was so much, of course, added to the nominal prices of commodities, and these prices, thus unnaturally high, seemed, to those who looked only at the appearance, to indicate great prosperity. But such prosperity is more specious than real. It would have been better, probably, as the shock would have been less, if prices had fallen sooner. At length, however, they fell; and as there is little doubt that certain events in Europe had an influence in determining the time at which this fall took place, I will advert shortly to some of the principal of those events.

In May, 1819, the British House of Commons decided, by a unanimous vote, that the resumption of cash payments by the Bank of England should not be deferred beyond the ensuing February. The restriction had been continued from time to time, and from year to year, Parliament always professing to look to the restoration of a specie currency whenever it should be found practicable. Having been, in July, 1818, continued to July, 1819, it was understood that, in the interim, the important question of the time at which cash payments should be resumed should be finally settled. In the latter part of the year 1818, the circulation of the bank had been greatly reduced, and a severe scarcity of money was felt in the London market. Such was the state of things in England. On the Continent, other important events took place. The French Indemnity Loan had been negotiated in the summer of 1818, and the proportion of it belonging to Austria, Russia, and Prussia had been sold. This created an unusual demand for gold and silver in those countries. It has been stated, that the amount of the precious metals transmitted to Austria and Russia in that year was at least twenty millions sterling. Other large sums were sent to Prussia and to Denmark. The effect of this sudden drain of specie, felt first at Paris, was communicated to Amsterdam and Hamburg, and all other commercial places in the North of Europe.

The paper system of England had certainly communicated an artificial value to property. It had encouraged speculation, and excited over-trading. When the shock therefore came, and this

violent pressure for money acted at the same moment on the Continent and in England, inflated and unnatural prices could be kept up no longer. A reduction took place, which has been estimated to have been at least equal to a fall of thirty, if not forty per cent. The depression was universal; and the change was felt in the United States severely, though not equally so in every part. There are those, I am aware, who maintain that the events to which I have alluded did not cause the great fall of prices, but that that fall was natural and inevitable, from the previously existing state of things, the abundance of commodities, and the want of demand. But that would only prove that the effect was produced in another way, rather than by another cause. If these great and sudden calls for money did not reduce prices, but prices fell, as of themselves, to their natural state, still the result is the same; for we perceive that, after these new calls for money, prices could not be kept longer at their unnatural height.

About the time of these foreign events, our own bank system underwent a change; and all these causes, in my view of the subject, concurred to produce the great shock which took place in our commercial cities, and in many parts of the country. The year 1819 was a year of numerous failures, and very considerable distress, and would have furnished far better grounds than exist at present for that gloomy representation of our condition which has been presented. Mr. Speaker has alluded to the strong inclination which exists, or has existed, in various parts of the country, to issue paper money, as a proof of great existing difficulties. I regard it rather as a very productive cause of those difficulties; and the committee will not fail to observe, that there is, at this moment, much the loudest complaint of distress precisely where there has been the greatest attempt to relieve it by systems of paper credit. And, on the other hand, content, prosperity, and happiness are most observable in those parts of the country where there has been the least endeavor to administer relief by law. In truth, nothing is so baneful, so utterly ruinous to all true industry, as interfering with the legal value of money, or attempting to raise artificial standards to supply its place. Such remedies suit well the spirit of extravagant speculation, but they sap the very foundation of all honest acquisition. By weakening the security of property, they take

away all motive for exertion. Their effect is to transfer property. Whenever a debt is allowed to be paid by any thing less valuable than the legal currency in respect to which it was contracted, the difference between the value of the paper given in payment and the legal currency is precisely so much property taken from one man and given to another, by legislative enactment.

When we talk, therefore, of protecting industry, let us remember that the first measure for that end is to secure it in its earnings; to assure it that it shall receive its own. Before we invent new modes of raising prices, let us take care that existing prices are not rendered wholly unavailable, by making them capable of being paid in depreciated paper. I regard, Sir, this issue of irredeemable paper as the most prominent and deplorable cause of whatever pressure still exists in the country; and, further, I would put the question to the members of this committee, whether it is not from that part of the people who have tried this paper system, and tried it to their cost, that this bill receives the most earnest support? And I cannot forbear to ask, further, whether this support does not proceed rather from a general feeling of uneasiness under the present condition of things, than from the clear perception of any benefit which the measure itself can confer? Is not all expectation of advantage centred in a sort of vague hope, that change may produce relief? Debt certainly presses hardest where prices have been longest kept up by artificial means. They find the shock lightest who take it soonest; and I fully believe that, if those parts of the country which now suffer most, had not augmented the force of the blow by deferring it, they would have now been in a much better condition than they are. We may assure ourselves, once for all, Sir, that there can be no such thing as payment of debts by legislation. We may abolish debts indeed; we may transfer property by visionary and violent laws. But we deceive both ourselves and our constituents, if we flatter either ourselves or them with the hope that there is any relief against whatever pressure exists, but in economy and industry. The depression of prices and the stagnation of business have been in truth the necessary result of circumstances. No government could prevent them, and no government can altogether relieve the people from their effect. We have enjoyed a day of extraordinary pros

perity; we had been neutral while the world was at war, and had found a great demand for our products, our navigation, and our labor. We had no right to expect that that state of things would continue always. With the return of peace, foreign nations would struggle for themselves, and enter into competition with us in the great objects of pursuit.

Now, Sir, what is the remedy for existing evils? What is the course of policy suited to our actual condition? Certainly it is not our wisdom to adopt any system that may be offered to us, without examination, and in the blind hope that whatever changes our condition may improve it. It is better that we should

> "bear those ills we have,
> Than fly to others that we know not of."

We are bound to see that there is a fitness and an aptitude in whatever measures may be recommended to relieve the evils that afflict us; and before we adopt a system that professes to make great alterations, it is our duty to look carefully to each leading interest of the community, and see how it may probably be affected by our proposed legislation.

And, in the first place, what is the condition of our commerce? Here we must clearly perceive, that it is not enjoying that rich harvest which fell to its fortune during the continuance of the European wars. It has been greatly depressed, and limited to small profits. Still, it is elastic and active, and seems capable of recovering itself in some measure from its depression. The shipping interest, also, has suffered severely, still more severely, probably, than commerce. If any thing should strike us with astonishment, it is that the navigation of the United States should be able to sustain itself. Without any government protection whatever, it goes abroad to challenge competition with the whole world; and, in spite of all obstacles, it has yet been able to maintain eight hundred thousand tons in the employment of foreign trade. How, Sir, do the ship-owners and navigators accomplish this? How is it that they are able to meet, and in some measure overcome, universal competition? It is not, Sir, by protection and bounties; but by unwearied exertion, by extreme economy, by unshaken perseverance, by that manly and resolute spirit which relies on itself to protect itself. These causes alone enable American ships still to keep their

element, and show the flag of their country in distant seas. The rates of insurance may teach us how thoroughly our ships are built, and how skilfully and safely they are navigated. Risks are taken, as I learn, from the United States to Liverpool, at one per cent.; and from the United States to Canton and back, as low as three per cent. But when we look to the low rate of freight, and when we consider, also, that the articles entering into the composition of a ship, with the exception of wood, are dearer here than in other countries, we cannot but be utterly surprised that the shipping interest has been able to sustain itself at all. I need not say that the navigation of the country is essential to its honor and its defence. Yet, instead of proposing benefits for it in this hour of its depression, we threaten by this measure to lay upon it new and heavy burdens. In the discussion, the other day, of that provision of the bill which proposes to tax tallow for the benefit of the oil-merchants and whalemen, we had the pleasure of hearing eloquent eulogiums upon that portion of our shipping employed in the whale-fishery, and strong statements of its importance to the public interest. But the same bill proposes a severe tax upon that interest, for the benefit of the iron-manufacturer and the hemp-grower. So that the tallow-chandlers and soapboilers are sacrificed to the oil-merchants, in order that these again may contribute to the manufacturers of iron and the growers of hemp.

If such be the state of our commerce and navigation, what is the condition of our home manufactures? How are they amidst the general depression? Do they need further protection? and if any, how much? On all these points, we have had much general statement, but little precise information. In the very elaborate speech of Mr. Speaker, we are not supplied with satisfactory grounds of judging with respect to these various particulars. Who can tell, from any thing yet before the committee, whether the proposed duty be too high or too low on any one article? Gentlemen tell us, that they are in favor of domestic industry; so am I. They would give it protection; so would I. But then all domestic industry is not confined to manufactures. The employments of agriculture, commerce, and navigation are all branches of the same domestic industry; they all furnish employment for American capital and American labor. And when the question is, whether new duties shall be laid, for the

purpose of giving further encouragement to particular manufactures, every reasonable man must ask himself, both whether the proposed new encouragement be necessary, and whether it can be given without injustice to other branches of industry.

It is desirable to know, also, somewhat more distinctly, how the proposed means will produce the intended effect. One great object proposed, for example, is the increase of the home market for the consumption of agricultural products. This certainly is much to be desired; but what provisions of the bill are expected wholly or principally to produce this, is not stated. I would not deny that some increase of the home market may follow, from the adoption of this bill, but all its provisions have not an equal tendency to produce this effect. Those manufactures which employ most labor, create, of course, most demand for articles of consumption; and those create least in the production of which capital and skill enter as the chief ingredients of cost. I cannot, Sir, take this bill merely because a committee has recommended it. I cannot espouse a side, and fight under a flag. I wholly repel the idea that we must take this law, or pass no law on the subject. What should hinder us from exercising our own judgments upon these provisions, singly and severally? Who has the power to place us, or why should we place ourselves, in a condition where we cannot give to every measure, that is distinct and separate in itself, a separate and distinct consideration? Sir, I presume no member of the committee will withhold his assent from what he thinks right, until others will yield their assent to what they think wrong. There are many things in this bill acceptable, probably, to the general sense of the House. Why should not these provisions be passed into a law, and others left to be decided upon their own merits, as a majority of the House shall see fit? To some of these provisions, I am myself decidedly favorable; to others I have great objections; and I should have been very glad of an opportunity of giving my own vote distinctly on propositions which are, in their own nature, essentially and substantially distinct from one another.

But, Sir, before expressing my own opinion upon the several provisions of this bill, I will advert for a moment to some other general topics. We have heard much of the policy of England, and her example has been repeatedly urged upon us, as proving,

not only the expediency of encouragement and protection, but of exclusion and direct prohibition also. I took occasion the other day to remark, that more liberal notions were becoming prevalent on this subject; that the policy of restraints and prohibitions was getting out of repute, as the true nature of commerce became better understood; and that, among public men, those most distinguished were most decided in their reprobation of the broad principle of exclusion and prohibition. Upon the truth of this representation, as matter of fact, I supposed there could not be two opinions among those who had observed the progress of political sentiment in other countries, and were acquainted with its present state. In this respect, however, it would seem that I was greatly mistaken. We have heard it again and again declared, that the English government still adheres, with immovable firmness, to its old doctrines of prohibition; that although journalists, theorists, and scientific writers advance other doctrines, yet the practical men, the legislators, the government of the country, are too wise to follow them. It has even been most sagaciously hinted, that the promulgation of liberal opinions on these subjects is intended only to delude other governments, to cajole them into the folly of liberal ideas, while England retains to herself all the benefits of the admirable old system of prohibition. We have heard from Mr. Speaker a warm commendation of the complex mechanism of this system. The British empire, it is said, is, in the first place, to be protected against the rest of the world; then the British Isles against the colonies; next, the isles respectively against each other, England herself, as the heart of the empire, being protected most of all, and against all.

Truly, Sir, it appears to me that Mr. Speaker's imagination has seen system, and order, and beauty, in that which is much more justly considered as the result of ignorance, partiality, or violence. This part of English legislation has resulted, partly from considering Ireland as a conquered country, partly from the want of a complete union, even with Scotland, and partly from the narrow views of colonial regulation, which in early and uninformed periods influenced the European states.

Nothing, I imagine, would strike the public men of England more singularly, than to find gentlemen of real information and much weight in the councils of this country expressing senti-

ments like these, in regard to the existing state of these English laws. I have never said, indeed, that prohibitory laws do not exist in England; we all know they do; but the question is, Does she owe her prosperity and greatness to these laws? I venture to say, that such is not the opinion of public men now in England, and the continuance of the laws, even without any alteration, would not be evidence that their opinion is different from what I have represented it; because the laws having existed long, and great interests having been built up on the faith of them, they cannot now be repealed without great and overwhelming inconvenience. Because a thing has been wrongly done, it does not therefore follow that it can now be undone; and this is the reason, as I understand it, for which exclusion, prohibition, and monopoly are suffered to remain in any degree in the English system; and for the same reason, it will be wise in us to take our measures, on all subjects of this kind, with great caution. We may not be able, but at the hazard of much injury to individuals, hereafter to retrace our steps. And yet, whatever is extravagant or unreasonable is not likely to endure. There may come a moment of strong reaction; and if no moderation be shown in laying on duties, there may be as little scruple in taking them off.

It may be here observed, that there is a broad and marked distinction between entire prohibition and reasonable encouragement. It is one thing, by duties or taxes on foreign articles, to awaken a home competition in the production of the same articles; it is another thing to remove all competition by a total exclusion of the foreign article; and it is quite another thing still, by total prohibition, to raise up at home manufactures not suited to the climate, the nature of the country, or the state of the population. These are substantial distinctions, and although it may not be easy in every case to determine which of them applies to a given article, yet the distinctions themselves exist, and in most cases will be sufficiently clear to indicate the true course of policy; and, unless I have greatly mistaken the prevailing sentiment in the councils of England, it grows every day more and more favorable to the diminution of restrictions, and to the wisdom of leaving much (I do not say every thing, for that would not be true) to the enterprise and the discretion of individuals. I should certainly not have taken up the time of

the committee to state at any length the opinions of other governments, or of the public men of other countries, upon a subject like this; but an occasional remark made by me the other day, having been so directly controverted, especially by Mr. Speaker, in his observations yesterday, I must take occasion to refer to some proofs of what I have stated.

What, then, is the state of English opinion? Every body knows that, after the termination of the late European war, there came a time of great pressure in England. Since her example has been quoted, let it be asked in what mode her government sought relief. Did it aim to maintain artificial and unnatural prices? Did it maintain a swollen and extravagant paper circulation? Did it carry further the laws of prohibition and exclusion? Did it draw closer the cords of colonial restraint? No, Sir, but precisely the reverse. Instead of relying on legislative contrivances and artificial devices, it trusted to the enterprise and industry of the people, which it sedulously sought to excite, not by imposing restraint, but by removing it, wherever its removal was practicable. In May, 1820, the attention of the government having been much turned to the state of foreign trade, a distinguished member* of the House of Peers brought forward a Parliamentary motion upon that subject, followed by an ample discussion and a full statement of his own opinions. In the course of his remarks, he observed, "that there ought to be no prohibitory duties, as such; for that it was evident, that, where a manufacture could not be carried on, or a production raised, but under the protection of a prohibitory duty, that manufacture, or that produce, could not be brought to market but at a loss. In his opinion, the name of strict prohibition might, therefore, in commerce, be got rid of altogether; but he did not see the same objection to protecting duties, which, while they admitted of the introduction of commodities from abroad similar to those which we ourselves manufactured, placed them so much on a level as to allow a competition between them." "No axiom," he added, "was more true than this: that it was by growing what the territory of a country could grow most cheaply, and by receiving from other countries what it could not produce except at too great an expense, that the greatest degree

* Lord Lansdowne.

of happiness was to be communicated to the greatest extent of population."

In assenting to the motion, the first minister* of the crown expressed his own opinion of the great advantage resulting from unrestricted freedom of trade. "Of the soundness of that general principle," he observed, "I can entertain no doubt. I can entertain no doubt of what would have been the great advantages to the civilized world, if the system of unrestricted trade had been acted upon by every nation from the earliest period of its commercial intercourse with its neighbors. If to those advantages there could have been any exceptions, I am persuaded that they would have been but few; and I am also persuaded that the cases to which they would have referred would not have been, in themselves, connected with the trade and commerce of England. But we are now in a situation in which, I will not say that a reference to the principle of unrestricted trade can be of no use, because such a reference may correct erroneous reasoning, but in which it is impossible for us, or for any country in the world but the United States of America, to act unreservedly on that principle. The commercial regulations of the European world have been long established, and cannot suddenly be departed from." Having supposed a proposition to be made to England by a foreign state for free commerce and intercourse, and an unrestricted exchange of agricultural products and of manufactures, he proceeds to observe: "It would be impossible to accede to such a proposition. We have risen to our present greatness under a different system. Some suppose that we have risen in consequence of that system; *others, of whom I am one, believe that we have risen in spite of that system.* But, whichever of these hypotheses be true, certain it is that we have risen under a very different system than that of free and unrestricted trade. It is utterly impossible, with our debt and taxation, even if they were but half their existing amount, that we can suddenly adopt the system of free trade."

Lord Ellenborough, in the same debate, said, "that he attributed the general distress then existing in Europe to the regulations that had taken place since the destruction of the French power. Most of the states on the Continent had surrounded

* Lord Liverpool.

themselves as with walls of brass, to inhibit intercourse with other states. Intercourse was prohibited, even in districts of the same state, as was the case in Austria and Sardinia. Thus, though the taxes on the people had been lightened, the severity of their condition had been increased. He believed that the discontent which pervaded most parts of Europe, and especially Germany, was more owing to commercial restrictions than to any theoretical doctrines on government; and that a free communication among them would do more to restore tranquillity, than any other step that could be adopted. He objected to all attempts to frustrate the benevolent intentions of Providence, which had given to various countries various wants, in order to bring them together. He objected to it as anti-social; he objected to it, as making commerce the means of barbarizing, instead of enlightening, nations. The state of the trade with France was most disgraceful to both countries; the two greatest civilized nations of the world, placed at a distance of scarcely twenty miles from each other, had contrived, by their artificial regulations, to reduce their commerce with each other to a mere nullity." Every member speaking on this occasion agreed in the general sentiments favorable to unrestricted intercourse, which had thus been advanced; one of them remarking, at the conclusion of the debate, that "the principles of free trade, which he was happy to see so fully recognized, were of the utmost consequence; for, though, in the present circumstances of the country, a free trade was unattainable, yet their task hereafter was to approximate to it. Considering the prejudices and interests which were opposed to the recognition of that principle, it was no small indication of the firmness and liberality of government to have so fully conceded it."

Sir, we have seen, in the course of this discussion, that several gentlemen have expressed their high admiration of the *silk manufacture* of England. Its commendation was begun, I think, by the honorable member from Vermont, who sits near me, who thinks that that alone gives conclusive evidence of the benefits produced by attention to manufactures, inasmuch as it is a great source of wealth to the nation, and has amply repaid all the cost of its protection. Mr. Speaker's approbation of this part of the English example was still warmer. Now, Sir, it does so happen, that both these gentlemen differ very widely on this

point from the opinions entertained in England, by persons of the first rank, both as to knowledge and power. In the debate to which I have already referred, the proposer of the motion urged the expediency of providing for the admission of the silks of France into England. "He was aware," he said, "that there was a poor and industrious body of manufacturers, whose interests must suffer by such an arrangement; and therefore he felt that it would be the duty of Parliament to provide for the present generation by a large Parliamentary grant. It was conformable to every principle of sound justice to do so, when the interests of a particular class were sacrificed to the good of the whole." In answer to these observations, Lord Liverpool said that, with reference to several branches of manufactures, time, and the change of circumstances, had rendered the system of protecting duties merely nominal; and that, in his opinion, if all the protecting laws which regarded both the woollen and cotton manufactures were to be repealed, no injurious effects would thereby be occasioned. "But," he observes, "with respect to silk, that manufacture in this kingdom is so completely artificial, that any attempt to introduce the principles of free trade with reference to it might put an end to it altogether. I allow that the silk manufacture is not natural to this country. *I wish we had never had a silk manufactory.* I allow that it is natural to France; I allow that it might have been better, had each country adhered exclusively to that manufacture in which each is superior; and had the silks of France been exchanged for British cottons. But I must look at things as they are; and when I consider the extent of capital, and the immense population, consisting, I believe, of about fifty thousand persons, engaged in our silk manufacture, I can only say, that one of the few points in which I totally disagree with the proposer of the motion is the expediency, under existing circumstances, of holding out any idea, that it would be possible to relinquish the silk manufacture, and to provide for those who live by it, by Parliamentary enactment. Whatever objections there may be to the continuance of the protecting system, I repeat, that it is impossible altogether to relinquish it. I may regret that the system was ever commenced; but as I cannot recall that act, I must submit to the inconvenience by which it is attended, rather than expose the country to evils of greater magnitude." Let it be re-

membered, Sir, that these are not the sentiments of a theorist, nor the fancies of speculation; but the operative opinions of the first minister of England, acknowledged to be one of the ablest and most practical statesmen of his country.

Gentlemen could have hardly been more unfortunate than in the selection of the silk manufacture in England as an example of the beneficial effects of that system which they would recommend. It is, in the language which I have quoted, completely artificial. It has been sustained by I know not how many laws, breaking in upon the plainest principles of general expediency. At the last session of Parliament, the manufacturers petitioned for the repeal of three or four of these statutes, complaining of the vexatious restrictions which they impose on the wages of labor; setting forth, that a great variety of orders has from time to time been issued by magistrates under the authority of these laws, interfering in an oppressive manner with the minutest details of the manufacture: such as limiting the number of threads to an inch, restricting the widths of many sorts of work, and determining the quantity of labor not to be exceeded without extra wages; that by the operation of these laws, the rate of wages, instead of being left to the recognized principles of regulation, has been arbitrarily fixed by persons whose ignorance renders them incompetent to a just decision; that masters are compelled by law to pay an equal price for all work, whether well or ill performed; and that they are wholly prevented from using improved machinery, it being ordered, that work, in the weaving of which machinery is employed, shall be paid precisely at the same rate as if done by hand; that these acts have frequently given rise to the most vexatious regulations, the unintentional breach of which has subjected manufacturers to ruinous penalties; and that the introduction of all machinery being prevented, by which labor might be cheapened, and the manufacturers being compelled to pay at a fixed price, under all circumstances, they are unable to afford employment to their workmen, in times of stagnation of trade, and are compelled to stop their looms. And finally, they complain, that, notwithstanding these grievances under which they labor, while carrying on their manufacture in London, the law still prohibits them, while they continue to reside there, from employing any portion of their capital in the same business in any other part of the

kingdom, where it might be more beneficially conducted. Now, Sir, absurd as these laws must appear to be to every man, the attempt to repeal them did not, as far as I recollect, altogether succeed. The weavers were too numerous, their interests too great, or their prejudices too strong; and this notable instance of protection and monopoly still exists, to be lamented in England with as much sincerity as it seems to be admired here.

In order further to show the prevailing sentiment of the English government, I would refer to a report of a select committee of the House of Commons, at the head of which was the Vice-President of the Board of Trade (Mr. Wallace), in July, 1820. "The time," say that committee, "when monopolies could be successfully supported, or would be patiently endured, either in respect to subjects against subjects, or particular countries against the rest of the world, seems to have passed away. Commerce, to continue undisturbed and secure, must be, as it was intended to be, a source of reciprocal amity between nations, and an interchange of productions to promote the industry, the wealth, and the happiness of mankind." In moving for the reappointment of the committee in February, 1823, the same gentleman said: "We must also get rid of that feeling of appropriation which exhibited itself in a disposition to produce every thing necessary for our own consumption, and to render ourselves independent of the world. No notion could be more absurd or mischievous; it led, even in peace, to an animosity and rancor greater than existed in time of war. Undoubtedly there would be great prejudices to combat, both in this country and elsewhere, in the attempt to remove the difficulties which are most obnoxious. It would be impossible to forget the attention which was in some respects due to the present system of protections, although that attention ought certainly not to be carried beyond the absolute necessity of the case." And in a second report of the committee, drawn by the same gentleman, in that part of it which proposes a diminution of duties on timber from the North of Europe, and the policy of giving a legislative preference to the importation of such timber in the log, and a discouragement of the importation of deals, it is stated that the committee reject this policy, because, among other reasons, "it is founded on a principle of exclusion, which they are most averse to see brought into operation, in any *new instance*, with-

out the warrant of some evident and great political expediency." And on many subsequent occasions the same gentleman has taken occasion to observe, that he differed from those who thought that manufactures could not flourish without restrictions on trade; that old prejudices of that sort were dying away, and that more liberal and just sentiments were taking their place.

These sentiments appear to have been followed by important legal provisions, calculated to remove restrictions and prohibitions where they were most severely felt; that is to say, in several branches of navigation and trade. They have relaxed their colonial system, they have opened the ports of their islands, and have done away the restriction which limited the trade of the colony to the mother country. Colonial products can now be carried directly from the islands to any part of Europe; and it may not be improbable, considering our own high duties on spirits, that that article may be exchanged hereafter by the English West India colonies directly for the timber and deals of the Baltic. It may be added that Mr. Lowe, whom the gentleman has cited, says, that nobody supposes that the three great staples of English manufactures, cotton, woollen, and hardware, are benefited by any existing protecting duties; and that one object of all these protecting laws is usually overlooked, and that is, that they have been intended to reconcile the various interests to taxation; the corn law, for example, being designed as some equivalent to the agricultural interest for the burden of tithes and of poor-rates.

In fine, Sir, I think it is clear, that, if we now embrace the system of prohibitions and restrictions, we shall show an affection for what others have discarded, and be attempting to ornament ourselves with cast-off apparel.

Sir, I should not have gone into this prolix detail of opinions from any consideration of their special importance on the present occasion; but having happened to state that such was the actual opinion of the government of England at the present time, and the accuracy of this representation having been so confidently denied, I have chosen to put the matter beyond doubt or cavil, although at the expense of these tedious citations I shall have occasion hereafter to refer more particularly to sundry recent British enactments, by way of showing the diligence and spirit with which that government strives to

sustain its navigating interest, by opening the widest possible range to the enterprise of individual adventurers. I repeat, that I have not alluded to these examples of a foreign state as being fit to control our own policy. In the general principle, I acquiesce. Protection, when carried to the point which is now recommended, that is, to entire prohibition, seems to me destructive of all commercial intercourse between nations. We are urged to adopt the system upon general principles; and what would be the consequence of the universal application of such a general principle, but that nations would abstain entirely from all intercourse with one another? I do not admit the general principle; on the contrary, I think freedom of trade to be the general principle, and restriction the exception. And it is for every state, taking into view its own condition, to judge of the propriety, in any case, of making an exception, constantly preferring, as I think all wise governments will, not to depart without urgent reason from the general rule.

There is another point in the existing policy of England to which I would most earnestly invite the attention of the committee; I mean the warehouse system, or what we usually call the system of drawback. Very great prejudices appear to me to exist with us on that subject. We seem averse to the extension of the principle. The English government, on the contrary, appear to have carried it to the extreme of liberality. They have arrived, however, at their present opinions and present practice by slow degrees. The transit system was commenced about the year 1803, but the first law was partial and limited. It admitted the importation of raw materials for exportation, but it excluded almost every sort of manufactured goods. This was done for the same reason that we propose to prevent the transit of Canadian wheat through the United States, the fear of aiding the competition of the foreign article with our own in foreign markets. Better reflection or more experience has induced them to abandon that mode of reasoning, and to consider all such means of influencing foreign markets as nugatory; since, in the present active and enlightened state of the world, nations will supply themselves from the best sources, and the true policy of all producers, whether of raw materials or of manufactured articles, is, not vainly to endeavor to keep other vendors out of the market, but to conquer them in it by

the quality and the cheapness of their articles. The present policy of England, therefore, is to allure the importation of commodities into England, there to be deposited in English warehouses, thence to be exported in assorted cargoes, and thus enabling her to carry on a general export trade to all quarters of the globe. Articles of all kinds, with the single exception of tea, may be brought into England, from any part of the world, in foreign as well as British ships, there warehoused, and again exported, at the pleasure of the owner, without the payment of any duty or government charge whatever.

While I am upon this subject, I would take notice also of the recent proposition in the English Parliament to abolish the tax on imported wool; and it is observable that those who support this proposition give the same reasons that have been offered here, within the last week, against the duty which we propose on the same article. They say that their manufacturers require a cheap and coarse wool, for the supply of the Mediterranean and Levant trade, and that, without a more free admission of the wool of the Continent, that trade will all fall into the hands of the Germans and Italians, who will carry it on through Leghorn and Trieste. While there is this duty on foreign wool to protect the wool-growers of England, there is, on the other hand, a prohibition on the exportation of the native article in aid of the manufacturers. The opinion seems to be gaining strength, that the true policy is to abolish both.

Laws have long existed in England preventing the emigration of artisans and the exportation of machinery; but the policy of these, also, has become doubted, and an inquiry has been instituted in Parliament into the expediency of repealing them. As to the emigration of artisans, say those who disapprove the laws, if that were desirable, no law could effect it; and as to the exportation of machinery, let us make it and export it as we would any other commodity. If France is determined to spin and weave her own cotton, let us, if we may, still have the benefit of furnishing the machinery.

I have stated these things, Sir, to show what seems to be the general tone of thinking and reasoning on these subjects in that country, the example of which has been so much pressed upon us. Whether the present policy of England be right or wrong, wise or unwise, it cannot, as it seems clearly to me, be quoted

as an authority for carrying further the restrictive and exclusive system, either in regard to manufactures or trade. To reëstablish a sound currency, to meet at once the shock, tremendous as it was, of the fall of prices, to enlarge her capacity for foreign trade, to open wide the field of individual enterprise and competition, and to say plainly and distinctly that the country must relieve itself from the embarrassments which it felt, by economy, frugality, and renewed efforts of enterprise, — these appear to be the general outline of the policy which England has pursued.

Mr. Chairman, I will now proceed to say a few words upon a topic, but for the introduction of which into this debate I should not have given the committee on this occasion the trouble of hearing me. Some days ago, I believe it was when we were settling the controversy between the oil-merchants and the tallow-chandlers, the *balance of trade* made its appearance in debate, and I must confess, Sir, that I spoke of it, or rather spoke to it, somewhat freely and irreverently. I believe I used the hard names which have been imputed to me, and I did it simply for the purpose of laying the spectre, and driving it back to its tomb. Certainly, Sir, when I called the old notion on this subject non sense, I did not suppose that I should offend any one, unless the dead should happen to hear me. All the living generation, I took it for granted, would think the term very properly applied. In this, however, I was mistaken. The dead and the living rise up together to call me to account, and I must defend myself as well as I am able.

Let us inquire, then, Sir, what is meant by an unfavorable balance of trade, and what the argument is, drawn from that source. By an unfavorable balance of trade, I understand, is meant that state of things in which importation exceeds exportation. To apply it to our own case, if the value of goods imported exceed the value of those exported, then the balance of trade is said to be against us, inasmuch as we have run in debt to the amount of this difference. Therefore it is said, that, if a nation continue long in a commerce like this, it must be rendered absolutely bankrupt. It is in the condition of a man that buys more than he sells; and how can such a traffic be maintained without ruin? Now, Sir, the whole fallacy of this argument consists in supposing, that, whenever the value of imports

exceeds that of exports, a debt is necessarily created to the extent of the difference, whereas, ordinarily, the import is no more than the result of the export, augmented in value by the labor of transportation. The excess of imports over exports, in truth, usually shows the gains, not the losses, of trade; or, in a country that not only buys and sells goods, but employs ships in carrying goods also, it shows the profits of commerce, and the earnings of navigation. Nothing is more certain than that, in the usual course of things, and taking a series of years together, the value of our imports is the aggregate of our exports and our freights. If the value of commodities imported in a given instance did not exceed the value of the outward cargo, with which they were purchased, then it would be clear to every man's common sense, that the voyage had not been profitable. If such commodities fell far short in value of the cost of the outward cargo, then the voyage would be a very losing one; and yet it would present exactly that state of things, which, according to the notion of a balance of trade, can alone indicate a prosperous commerce. On the other hand, if the return cargo were found to be worth much more than the outward cargo, while the merchant, having paid for the goods exported, and all the expenses of the voyage, finds a handsome sum yet in his hands, which he calls profits, the balance of trade is still against him, and, whatever he may think of it, he is in a very bad way. Although one individual or all individuals gain, the nation loses; while all its citizens grow rich, the country grows poor. This is the doctrine of the balance of trade.

Allow me, Sir, to give an instance tending to show how unaccountably individuals deceive themselves, and imagine themselves to be somewhat rapidly mending their condition, while they ought to be persuaded that, by that infallible standard, the balance of trade, they are on the high road to ruin. Some years ago, in better times than the present, a ship left one of the towns of New England with 70,000 specie dollars. She proceeded to Mocha, on the Red Sea, and there laid out these dollars in coffee, drugs, spices, and other articles procured in that market. With this new cargo she proceeded to Europe; two thirds of it were sold in Holland for $130,000, which the ship brought back, and placed in the same bank from the vaults of which she had taken her original outfit. The other third was sent to the

ports of the Mediterranean, and produced a return of $25,000 in specie, and $15,000 in Italian merchandise. These sums together make $170,000 imported, which is $100,000 more than was exported, and is therefore proof of an unfavorable balance of trade, to that amount, in this adventure. We should find no great difficulty, Sir, in paying off our balances, if this were the nature of them all.

The truth is, Mr. Chairman, that all these obsolete and exploded notions had their origin in very mistaken ideas of the true nature of commerce. Commerce is not a gambling among nations for a stake, to be won by some and lost by others. It has not the tendency necessarily to impoverish one of the parties to it, while it enriches the other; all parties gain, all parties make profits, all parties grow rich, by the operations of just and liberal commerce. If the world had but one clime and but one soil; if all men had the same wants and the same means, on the spot of their existence, to gratify those wants, — then, indeed, what one obtained from the other by exchange would injure one party in the same degree that it benefited the other; then, indeed, there would be some foundation for the balance of trade. But Providence has disposed our lot much more kindly. We inhabit a various earth. We have reciprocal wants, and reciprocal means for gratifying one another's wants. This is the true origin of commerce, which is nothing more than an exchange of equivalents, and, from the rude barter of its primitive state, to the refined and complex condition in which we see it, its principle is uniformly the same, its only object being, in every stage, to produce that exchange of commodities between individuals and between nations which shall conduce to the advantage and to the happiness of both. Commerce between nations has the same essential character as commerce between individuals, or between parts of the same nation. Cannot two individuals make an interchange of commodities which shall prove beneficial to both, or in which the balance of trade shall be in favor of both? If not, the tailor and the shoemaker, the farmer and the smith, have hitherto very much misunderstood their own interests. And with regard to the internal trade of a country, in which the same rule would apply as between nations, do we ever speak of such an intercourse as prejudicial to one side because it is useful to the other? Do we ever hear that, because the intercourse between

New York and Albany is advantageous to one of those places, it must therefore be ruinous to the other?

May I be allowed, Sir, to read a passage on this subject from the observations of a gentleman, in my opinion one of the most clear and sensible writers and speakers of the age upon subjects of this sort?* "There is no political question on which the prevalence of false principles is so general, as in what relates to the nature of commerce and to the pretended balance of trade; and there are few which have led to a greater number of practical mistakes, attended with consequences extensively prejudicial to the happiness of mankind. In this country, our Parliamentary proceedings, our public documents, and the works of several able and popular writers, have combined to propagate the impression, that we are indebted for much of our riches to what is called the balance of trade." "Our true policy would surely be to profess, as the object and guide of our commercial system, that which every man who has studied the subject must know to be the true principle of commerce, the interchange of reciprocal and equivalent benefit. We may rest assured that it is not in the nature of commerce to enrich one party at the expense of the other. This is a purpose at which, if it were practicable, we ought not to aim; and which, if we aimed at, we could not accomplish." These remarks, I believe, Sir, were written some ten or twelve years ago. They are in perfect accordance with the opinions advanced in more elaborate treatises, and now that the world has returned to a state of peace, and commerce has resumed its natural channels, and different nations are enjoying, or seeking to enjoy, their respective portions of it, all see the justness of these ideas; all see, that, in this day of knowledge and of peace, there can be no commerce between nations but that which shall benefit all who are parties to it.

If it were necessary, Mr. Chairman, I might ask the attention of the committee to refer to a document before us, on this subject of the balance of trade. It will be seen by reference to the accounts, that, in the course of the last year, our total export to Holland exceeded two millions and a half; our total import from the same country was but seven hundred thousand dollars. Now, can any man be wild enough to make any inference from this as to the

* Mr. Huskisson, President of the English Board of Trade.

gain or loss of our trade with Holland for that year? Our trade with Russia for the same year produced a balance the other way, our import being two millions, and our export but half a million. But this has no more tendency to show the Russian trade a losing trade, than the other statement has to show that the Dutch trade has been a gainful one. Neither of them, by itself, proves any thing.

Springing out of this notion of a balance of trade, there is another idea, which has been much dwelt upon in the course of this debate; that is, that we ought not to buy of nations who do not buy of us; for example, that the Russian trade is a trade disadvantageous to the country, and ought to be discouraged, because, in the ports of Russia, we buy more than we sell. Now allow me to observe, in the first place, Sir, that we have no account showing how much we do sell in the ports of Russia. Our official returns show us only what is the amount of our direct trade with her ports. But then we all know that the proceeds of another portion of our exports go to the same market, though indirectly. We send our own products, for example, to Cuba, or to Brazil; we there exchange them for the sugar and the coffee of those countries, and these articles we carry to St. Petersburg, and there sell them. Again; our exports to Holland and Hamburg are connected directly or indirectly with our imports from Russia. What difference does it make, in sense or reason, whether a cargo of iron be bought at St. Petersburg, by the exchange of a cargo of tobacco, or whether the tobacco has been sold on the way, in a better market, in a port of Holland, the money remitted to England, and the iron paid for by a bill on London? There might indeed have been an augmented freight, there might have been some saving of commissions, if tobacco had been in brisk demand in the Russian market. But still there is nothing to show that the whole voyage may not have been highly profitable. That depends upon the original cost of the article here, the amount of freight and insurance to Holland, the price obtained there, the rate of exchange between Holland and England, the expense, then, of proceeding to St. Petersburg, the price of iron there, the rate of exchange between that place and England, the amount of freight and insurance at home, and, finally, the value of the iron when brought to our own market. These are the calculations which

determine the fortune of the adventure; and nothing can be judged of it, one way or the other, by the relative state of our imports or exports with Holland, England, or Russia.

I would not be understood to deny, that it may often be our interest to cultivate a trade with countries that require most of such commodities as we can furnish, and which are capable also of directly supplying our own wants. This is the original and the simplest form of all commerce, and is no doubt highly beneficial. Some countries are so situated, that commerce, in this original form, or something near it, may be all that they can, without considerable inconvenience, carry on. Our trade, for example, with Madeira and the Western Islands has been useful to the country, as furnishing a demand for some portion of our agricultural products, which probably could not have been bought had we not received their products in return. Countries situated still farther from the great marts and highways of the commercial world may afford still stronger instances of the necessity and utility of conducting commerce on the original principle of barter, without much assistance from the operations of credit and exchange. All I would be understood to say is, that it by no means follows that we can carry on nothing but a losing trade with a country from which we receive more of her products than she receives of ours. Since I was supposed, the other day, in speaking upon this subject, to advance opinions which not only this country ought to reject, but which also other countries, and those the most distinguished for skill and success in commercial intercourse, do reject, I will ask leave to refer again to the discussion which I first mentioned in the English Parliament, relative to the foreign trade of that country. "With regard," says the mover* of the proposition, "to the argument employed against renewing our intercourse with the North of Europe, namely, that those who supplied us with timber from that quarter would not receive British manufactures in return, it appeared to him futile and ungrounded. If they did not send direct for our manufactures at home, they would send for them to Leipsic and other fairs of Germany. Were not the Russian and Polish merchants purchasers there to a great amount? But he would never admit the prin-

* The Marquess of Lansdowne.

ciple, that a trade was not profitable because we were obliged to carry it on with the precious metals, or that we ought to renounce it, because our manufactures were not received by the foreign nation in return for its produce. Whatever we received must be paid for in the produce of our land and labor, directly or circuitously, and he was glad to have the noble Earl's* marked concurrence in this principle."

Referring ourselves again, Sir, to the analogies of common life, no one would say that a farmer or a mechanic should buy *only* where he can do so by the exchange of his own produce, or of his own manufacture. Such exchange may be often convenient; and, on the other hand, the cash purchase may be often more convenient. It is the same in the intercourse of nations. Indeed, Mr. Speaker has placed this argument on very clear grounds. It was said, in the early part of the debate, that, if we cease to import English cotton fabrics, England will no longer continue to purchase our cotton. To this Mr. Speaker replied, with great force and justice, that, as she must have cotton in large quantities, she will buy the article where she can find it best and cheapest; and that it would be quite ridiculous in her, manufacturing as she still would be, for her own vast consumption and the consumption of millions in other countries, to reject our uplands because we had learned to manufacture a part of them for ourselves. Would it not be equally ridiculous in us, if the commodities of Russia were both cheaper and better suited to our wants than could be found elsewhere, to abstain from commerce with her, because she will not receive in return other commodities which we have to sell, but which she has no occasion to buy?

Intimately connected, Sir, with this topic, is another which has been brought into the debate; I mean the evil so much complained of, the exportation of specie. We hear gentlemen imputing the loss of market at home to a want of money, and this want of money to the exportation of the precious metals. We hear the India and China trade denounced, as a commerce conducted on our side, in a great measure, with gold and silver. These opinions, Sir, are clearly void of all just foundation, and

* Lord Liverpool.

we cannot too soon get rid of them. There are no shallower reasoners than those political and commercial writers who would represent it to be the only true and gainful end of commerce, to accumulate the precious metals. These are articles of use, and articles of merchandise, with this additional circumstance belonging to them, that they are made, by the general consent of nations, the standard by which the value of all other merchandise is to be estimated. In regard to weights and measures, something drawn from external nature is made a common standard, for the purposes of general convenience; and this is precisely the office performed by the precious metals, in addition to those uses to which, as metals, they are capable of being applied. There may be of these too much or too little in a country at a particular time, as there may be of any other articles. When the market is overstocked with them, as it often is, their exportation becomes as proper and as useful as that of other commodities, under similar circumstances. We need no more repine, when the dollars which have been brought here from South America are despatched to other countries, than when coffee and sugar take the same direction. We often deceive ourselves, by attributing to a scarcity of money that which is the result of other causes. In the course of this debate, the honorable member from Pennsylvania* has represented the country as full of every thing but money. But this I take to be a mistake. The agricultural products, so abundant in Pennsylvania, will not, he says, sell for money; but they will sell for money as quick as for any other article which happens to be in demand. They will sell for money, for example, as easily as for coffee or for tea, at the prices which properly belong to those articles. The mistake lies in imputing that to want of money which arises from want of demand. Men do not buy wheat because they have money, but because they want wheat. To decide whether money be plenty or not, that is, whether there be a large portion of capital unemployed or not, when the currency of a country is metallic, we must look, not only to the prices of commodities, but also to the rate of interest. A low rate of interest, a facility of obtaining money on loans, a disposition to invest in permanent stocks, all of

* Mr. Tod

which are proofs that money is plenty, may nevertheless often denote a state not of the highest prosperity. They may, and often do, show a want of employment for capital; and the accumulation of specie shows the same thing. We have no occasion for the precious metals as money, except for the purposes of circulation, or rather of sustaining a safe paper circulation. And whenever there is a prospect of a profitable investment abroad, all the gold and silver, except what these purposes require, will be exported. For the same reason, if a demand exist abroad for sugar and coffee, whatever amount of those articles might exist in the country, beyond the wants of its own consumption, would be sent abroad to meet that demand.

Besides, Sir, how should it ever occur to any body, that we should continue to export gold and silver, if we did not continue to import them also? If a vessel take our own products to the Havana, or elsewhere, exchange them for dollars, proceed to China, exchange them for silks and teas, bring these last to the ports of the Mediterranean, sell them there for dollars, and return to the United States; this would be a voyage resulting in the importation of the precious metals. But if she had returned from Cuba, and the dollars obtained there had been shipped direct from the United States to China, the China goods sold in Holland, and the proceeds brought home in the hemp and iron of Russia, this would be a voyage in which they were exported. Yet every body sees that both might be equally beneficial to the individual and to the public. I believe, Sir, that, in point of fact, we have enjoyed great benefit in our trade with India and China, from the liberty of going from place to place all over the world, without being obliged in the mean time to return home, a liberty not heretofore enjoyed by the private traders of England, in regard to India and China. Suppose the American ship to be at Brazil, for example; she could proceed with her dollars direct to India, and, in return, could distribute her cargo in all the various ports of Europe or America; while an English ship, if a private trader, being at Brazil, must first return to England, and then could only proceed in the direct line from England to India. This advantage our countrymen have not been backward to improve; and in the debate to which I have already so often referred, it was stated, not without some complaint of the inconvenience of exclusion, and the natural sluggishness of mo-

nopoly, that American ships were at that moment fitting out in the Thames, to supply France, Holland, and other countries on the Continent, with tea; while the East India Company would not do this of themselves, nor allow any of their fellow-country men to do it for them.

There is yet another subject, Mr. Chairman, upon which I would wish to say something, if I might presume upon the continued patience of the committee. We hear sometimes in the House, and continually out of it, of the rate of exchange, as being one proof that we are on the downward road to ruin. Mr. Speaker himself has adverted to that topic, and I am afraid that his authority may give credit to opinions clearly unfounded, and which lead to very false and erroneous conclusions. Sir, let us see what the facts are. Exchange on England has recently risen one or one and a half per cent., partly owing, perhaps, to the introduction of this bill into Congress. Before this recent rise, and for the last six months, I understand its average may have been about seven and a half per cent. advance. Now, supposing this to be the *real*, and not merely, as it is, the nominal, par of exchange between us and England, what would it prove? Nothing, except that funds were wanted by American citizens in England for commercial operations, to be carried on either in England or elsewhere. It would not necessarily show that we were indebted to England; for, if we had occasion to pay debts in Russia or Holland, funds in England would naturally enough be required for such a purpose. Even if it did prove that a balance was due England at the moment, it would have no tendency to explain to us whether our commerce with England had been profitable or unprofitable.

But it is not true, in point of fact, that the *real* price of exchange is seven and a half per cent. advance, nor, indeed, that there is at the present moment any advance at all. That is to say, it is not true that merchants will give such an advance, or any advance, for *money* in England, beyond what they would give for the same amount, in the same currency, here. It will strike every one who reflects upon it, that, if there were a real difference of seven and a half per cent., money would be immediately shipped to England; because the expense of transportation would be far less than that difference. Or commodities of trade

would be shipped to Europe, and the proceeds remitted to England. If it could so happen, that American merchants should be willing to pay ten per cent. premium for money in England, or, in other words, that a real difference to that amount in the exchange should exist, its effects would be immediately seen in new shipments of our own commodities to Europe, because this state of things would create new motives. A cargo of tobacco, for example, might sell at Amsterdam for the same price as before; but if its proceeds, when remitted to London, were advanced, as they would be in such case, ten per cent. by the state of exchange, this would be so much added to the price, and would operate therefore as a motive for the exportation; and in this way national balances are, and always will be, adjusted.

To form any accurate idea of the true state of exchange between two countries, we must look at their currencies, and compare the quantities of gold and silver which they may respectively represent. This usually explains the state of the exchanges; and this will satisfactorily account for the apparent advance now existing on bills drawn on England. The English standard of value is gold; with us that office is performed by gold, and by silver also, at a fixed relation to each other. But our estimate of silver is rather higher, in proportion to gold, than most nations give it; it is higher, especially, than in England, at the present moment. The consequence is, that silver, which remains a legal currency with us, stays here, while the gold has gone abroad; verifying the universal truth, that, if *two* currencies be allowed to exist, of different values, that which is cheapest will fill up the whole circulation. For as much gold as will suffice to pay here a debt of a given amount, we can buy in England more silver than would be necessary to pay the same debt here; and from this difference in the value of silver arises wholly or in a great measure the present apparent difference in exchange. Spanish dollars sell now in England for four shillings and nine pence sterling per ounce, equal to one dollar and six cents. By our standard the same ounce is worth one dollar and sixteen cents, being a difference of about nine per cent. The true par of exchange, therefore, is nine per cent. If a merchant here pay one hundred Spanish dollars for a bill on England, at nominal par, in sterling money, that is for a bill of £ 22 10*s.*, the proceeds of this bill, when paid in England in the legal currency,

will there purchase, at the present price of silver, one hundred and nine Spanish dollars. Therefore, if the nominal advance on English bills do not exceed nine per cent., the real exchange is not against this country; in other words, it does not show that there is any pressing or particular occasion for the remittance of funds to England.

As little can be inferred from the occasional transfer of United States stock to England. Considering the interest paid on our stocks, the entire stability of our credit, and the accumulation of capital in England, it is not at all wonderful that investments should occasionally be made in our funds. As a sort of countervailing fact, it may be stated that English stocks are now actually held in this country, though probably not to any considerable amount.

I will now proceed, Sir, to state some objections of a more general nature, to the course of Mr. Speaker's observations.

He seems to me to argue the question as if all domestic industry were confined to the production of manufactured articles; as if the employment of our own capital and our own labor, in the occupations of commerce and navigation, were not as emphatically domestic industry as any other occupation. Some other gentlemen, in the course of the debate, have spoken of the price paid for every foreign manufactured article as so much given for the encouragement of foreign labor, to the prejudice of our own. But is not every such article the product of our own labor as truly as if we had manufactured it ourselves? Our labor has earned it, and paid the price for it. It is so much added to the stock of national wealth. If the commodity were dollars, nobody would doubt the truth of this remark; and it is precisely as correct in its application to any other commodity as to silver. One man makes a yard of cloth at home; another raises agricultural products and buys a yard of imported cloth. Both these are equally the earnings of domestic industry, and the only questions that arise in the case are two: the first is, which is the best mode, under all the circumstances, of obtaining the article; the second is, how far this first question is proper to be decided by government, and how far it is proper to be left to individual discretion. There is no foundation for the distinction which attributes to certain employments the peculiar

appellation of American industry; and it is, in my judgment, extremely unwise to attempt such discriminations.

We are asked, What nations have ever attained eminent prosperity without encouraging manufactures? I may ask, What nation ever reached the like prosperity without promoting foreign trade? I regard these interests as closely connected, and am of opinion that it should be our aim to cause them to flourish together. I know it would be very easy to promote manufactures, at least for a time, but probably for a short time only, if we might act in disregard of other interests. We could cause a sudden transfer of capital, and a violent change in the pursuits of men. We could exceedingly benefit some classes by these means. But what, then, becomes of the interests of others? The power of collecting revenue by duties on imports, and the habit of the government of collecting almost its whole revenue in that mode, will enable us, without exceeding the bounds of moderation, to give great advantages to those classes of manufactures which we may think most useful to promote at home. What I object to is the immoderate use of the power, — exclusions and prohibitions; all of which, as I think, not only interrupt the pursuits of individuals, with great injury to themselves and little or no benefit to the country, but also often divert our own labor, or, as it may very properly be called, our own domestic industry, from those occupations in which it is well employed and well paid, to others in which it will be worse employed and worse paid. For my part, I see very little relief to those who are likely to be deprived of their employments, or who find the prices of the commodities which they need, raised, in any of the alternatives which Mr. Speaker has presented. It is nothing to say that they may, if they choose, continue to buy the foreign article; the answer is, the price is augmented: nor that they may use the domestic article; the price of that also is increased. Nor can they supply themselves by the substitution of their own fabric. How can the agriculturist make his own iron? How can the ship-owner grow his own hemp?

But I have a yet stronger objection to the course of Mr. Speaker's reasoning; which is, that he leaves out of the case all that has been already done for the protection of manufactures, and argues the question as if those interests were now for the

first time to receive aid from duties on imports. I can hardly express the surprise I feel that Mr. Speaker should fall into the common mode of expression used elsewhere, and ask if we will give our manufacturers no protection. Sir, look to the history of our laws; look to the present state of our laws. Consider that our whole revenue, with a trifling exception, is collected at the custom-house, and always has been; and then say what propriety there is in calling on the government for protection, as if no protection had heretofore been afforded. The real question before us, in regard to all the important clauses of the bill, is not whether we will *lay* duties, but whether we will *augment* duties. The demand is for something more than exists, and yet it is pressed as if nothing existed. It is wholly forgotten that iron and hemp, for example, already pay a very heavy and burdensome duty; and, in short, from the general tenor of Mr. Speaker's observations, one would infer that, hitherto, we had rather taxed our own manufactures than fostered them by taxes on those of other countries. We hear of the fatal policy of the tariff of 1816; and yet the law of 1816 was passed avowedly for the benefit of manufacturers, and, with very few exceptions, imposed on imported articles very great additions of tax; in some important instances, indeed, amounting to a prohibition.

Sir, on this subject, it becomes us at least to understand the real posture of the question. Let us not suppose that we are *beginning* the protection of manufactures, by duties on imports. What we are asked to do is, to render those duties much higher, and therefore, instead of dealing in general commendations of the benefits of protection, the friends of the bill, I think, are bound to make out a fair case for each of the manufactures which they propose to benefit. The government has already done much for their protection, and it ought to be presumed to have done enough, unless it be shown, by the facts and considerations applicable to each, that there is a necessity for doing more.

On the general question, Sir, allow me to ask if the doctrine of prohibition, as a general doctrine, be not preposterous. Suppose all nations to act upon it; they would be prosperous, then, according to the argument, precisely in the proportion in which they abolished intercourse with one another. The less of mutual commerce the better, upon this hypothesis. Protection and encouragement may be, and doubtless are, sometimes, wise and

beneficial, if kept within proper limits; but when carried to an extravagant height, or the point of prohibition, the absurd character of the system manifests itself. Mr. Speaker has referred to the late Emperor Napoleon, as having attempted to naturalize the manufacture of cotton in France. He did not cite a more extravagant part of the projects of that ruler, that is, his attempt to naturalize the growth of that plant itself, in France; whereas, we have understood that considerable districts in the South of France, and in Italy, of rich and productive lands, were at one time withdrawn from profitable uses, and devoted to raising, at great expense, a little bad cotton. Nor have we been referred to the attempts, under the same system, to make sugar and coffee from common culinary vegetables; attempts which served to fill the print-shops of Europe, and to show us how easy is the transition from what some think sublime to that which all admit to be ridiculous. The folly of some of these projects has not been surpassed, nor hardly equalled, unless it be by the philosopher in one of the satires of Swift, who so long labored to extract sunbeams from cucumbers.

The poverty and unhappiness of Spain have been attributed to the want of protection to her own industry. If by this it be meant that the poverty of Spain is owing to bad government and bad laws, the remark is, in a great measure, just. But these very laws are bad because they are restrictive, partial, and prohibitory. If prohibition were protection, Spain would seem to have had enough of it. Nothing can exceed the barbarous rigidity of her colonial system, or the folly of her early commercial regulations. Unenlightened and bigoted legislation, the multitude of holidays, miserable roads, monopolies on the part of government, restrictive laws, that ought long since to have been abrogated, are generally, and I believe truly, reckoned the principal causes of the bad state of the productive industry of Spain. Any partial improvement in her condition, or increase of her prosperity, has been, in all cases, the result of relaxation, and the abolition of what was intended for favor and protection.

In short, Sir, the general sense of this age sets, with a strong current, in favor of freedom of commercial intercourse, and unrestrained individual action. Men yield up their notions of monopoly and restriction, as they yield up other prejudices, slowly and reluctantly; but they cannot withstand the general tide of opinion.

Let me now ask, Sir, what relief this bill proposes to some of those great and essential interests of the country, the condition of which has been referred to as proof of national distress; and which condition, although I do not think it makes out a case of *distress*, yet does indicate depression.

And first, Sir, as to our foreign trade. Mr. Speaker has stated that there has been a considerable falling off in the tonnage employed in that trade. This is true, lamentably true. In my opinion, it is one of those occurrences which ought to arrest our immediate, our deep, our most earnest attention. What does this bill propose for its relief? It proposes nothing but new burdens. It proposes to diminish its employment, and it proposes, at the same time, to augment its expense, by subjecting it to heavier taxation. Sir, there is no interest, in regard to which a stronger case for protection can be made out, than the navigating interest. Whether we look at its present condition, which is admitted to be depressed, the number of persons connected with it, and dependent upon it for their daily bread, or its importance to the country in a political point of view, it has claims upon our attention which cannot be surpassed. But what do we propose to do for it? I repeat, Sir, simply to burden and to tax it. By a statement which I have already submitted to the committee, it appears that the shipping interest pays, annually, more than half a million of dollars in duties on articles used in the construction of ships. We propose to add nearly, or quite, fifty per cent. to this amount, at the very moment that we appeal to the languishing state of this interest as a proof of national distress. Let it be remembered that our shipping employed in foreign commerce has, at this moment, not the shadow of government protection. It goes abroad upon the wide sea to make its own way, and earn its own bread, in a professed competition with the whole world. Its resources are its own frugality, its own skill, its own enterprise. It hopes to succeed, if it shall succeed at all, not by extraordinary aid of government, but by patience, vigilance, and toil. This right arm of the nation's safety strengthens its own muscle by its own efforts, and by unwearied exertion in its own defence becomes strong for the defence of the country.

No one acquainted with this interest can deny that its situation, at this moment, is extremely critical. We have left it

hitherto to maintain itself or perish; to swim if it can, and to sink if it must. But at this moment of its apparent struggle, can we as men, can we as patriots, add another stone to the weight that threatens to carry it down? Sir, there is a limit to human power, and to human effort. I know the commercial marine of this country can do almost every thing, and bear almost every thing. Yet some things are impossible to be done, and some burdens may be impossible to be borne; and as it was the last ounce that broke the back of the camel, so the last tax, although it were even a small one, may be decisive as to the power of our marine to sustain the conflict in which it is now engaged with all the commercial nations on the globe.

Again, Mr. Chairman, the failures and the bankrupteies which have taken place in our large cities have been mentioned as proving the little success attending *commerce*, and its general decline. But this bill has no balm for those wounds. It is very remarkable, that when the losses and disasters of certain manufacturers, those of iron, for instance, are mentioned, it is done for the purpose of invoking aid for the distressed. Not so with the losses and disasters of commerce; these last are narrated, and not unfrequently much exaggerated, to prove the ruinous nature of the employment, and to show that it ought to be abandoned, and the capital engaged in it turned to other objects.

It has been often said, Sir, that our manufacturers have to contend, not only against the natural advantages of those who produce similar articles in foreign countries, but also against the action of foreign governments, who have great political interest in aiding their own manufactures to suppress ours. But have not these governments as great an interest to cripple our marine, by preventing the growth of our commerce and navigation? What is it that makes us the object of the highest respect, or the most suspicious jealousy, to foreign states? What is it that most enables us to take high relative rank among the nations? I need not say that this results, more than from any thing else, from that quantity of military power which we can cause to be water-borne, and from that extent of commerce which we are able to maintain throughout the world.

Mr Chairman, I am conscious of having detained the committee much too long with these observations. My apology for

now proceeding to some remarks upon the particular clauses of the bill is, that, representing a district at once commercial and highly manufacturing, and being called upon to vote upon a bill containing provisions so numerous and so various, I am naturally desirous to state as well what I approve, as what I would reject.

The first section proposes an augmented duty upon woollen manufactures. This, if it were unqualified, would no doubt be desirable to those who are engaged in that business. I have myself presented a petition from the woollen manufacturers of Massachusetts, praying an augmented *ad valorem* duty upon imported woollen cloths; and I am prepared to accede to that proposition, to a reasonable extent. But then this bill proposes, also, a very high duty upon imported wool; and, as far as I can learn, a majority of the manufacturers are at least extremely doubtful whether, taking these two provisions together, the state of the law is not better for them now than it would be if this bill should pass. It is said, this tax on raw wool will benefit the agriculturist; but I know it to be the opinion of some of the best informed of that class, that it will do them more hurt than good. They fear it will check the manufacturer, and consequently check his demand for their article. The argument is, that a certain quantity of coarse wool, cheaper than we can possibly furnish, is necessary to enable the manufacturer to carry on the general business, and that if this cannot be had, the consequence will be, not a greater, but a less, manufacture of our own wool. I am aware that very intelligent persons differ upon this point; but if we may safely infer from that difference of opinion, that the proposed benefit is at least doubtful, it would be prudent perhaps to abstain from the experiment. Certain it is, that the same reasoning has been employed, as I have before stated, on the same subject, when a renewed application was made to the English Parliament to repeal the duty on imported wool, I believe scarcely two months ago; those who supported the application pressing urgently the necessity of an unrestricted use of the cheap, imported raw material, with a view to supply with coarse cloths the markets of warm climates, such as those of Egypt and Turkey, and especially a vast newly created demand in the South American states.

As to the manufactures of cotton, it is agreed, I believe, that

they are generally successful. It is understood that the present existing duty operates pretty much as a prohibition over those descriptions of fabrics to which it applies. The proposed alteration would probably enable the American manufacturer to commence competition with higher-priced fabrics; and so, perhaps, would an augmentation less than is here proposed. I consider the cotton manufactures not only to have reached, but to have passed, the point of competition. I regard their success as certain, and their growth as rapid as the most impatient could well expect. If, however, a provision of the nature of that recommended here were thought necessary, to commence new operations in the same line of manufacture, I should cheerfully agree to it, if it were not at the cost of sacrificing other great interests of the country. I need hardly say, that whatever promotes the cotton and woollen manufactures promotes most important interests of my constituents. They have a great stake in the success of those establishments, and, as far as those manufactures are concerned, would be as much benefited by the provisions of this bill as any part of the community. It is obvious, too, I should think, that, for some considerable time, manufactures of this sort, to whatever magnitude they may rise, will be principally established in those parts of the country where population is most dense, capital most abundant, and where the most successful beginnings have already been made.

But if these be thought to be advantages, they are greatly counterbalanced by other advantages enjoyed by other portions of the country. I cannot but regard the situation of the West as highly favorable to human happiness. It offers, in the abundance of its new and fertile lands, such assurances of permanent property and respectability to the industrious, it enables them to lay such sure foundations for a competent provision for their families, it makes such a nation of freeholders, that it need not envy the happiest and most prosperous of the manufacturing communities. We may talk as we will of well-fed and well-clothed day-laborers or journeymen; they are not, after all, to be compared, either for happiness or respectability, with him who sleeps under his own roof and cultivates his own fee-simple inheritance.

With respect to the proposed duty on glass, I would observe, that, upon the best means of judging which I possess, I am of

opinion that the chairman of the committee is right in stating that there is in effect a bounty upon the exportation of the British article. I think it entirely proper, therefore, to raise our own duty by such an amount as shall be equivalent to that bounty.

And here, Mr. Chairman, before proceeding to those parts of the bill to which I most strenuously object, I will be so presumptuous as to take up a challenge which Mr. Speaker has thrown down. He has asked us, in a tone of interrogatory indicative of the feeling of anticipated triumph, to mention any country in which manufactures have flourished without the aid of prohibitory laws. He has demanded if it be not policy, protection, ay, and prohibition, that have carried other states to the height of their prosperity, and whether any one has succeeded with such tame and inert legislation as ours. Sir, I am ready to answer this inquiry.

There is a country, not undistinguished among the nations, in which the progress of manufactures has been far more rapid than in any other, and yet unaided by prohibitions or unnatural restrictions. That country, the happiest which the sun shines on, is our own.

The woollen manufactures of England have existed from the early ages of the monarchy. Provisions designed to aid and foster them are in the black-letter statutes of the Edwards and the Henrys. Ours, on the contrary, are but of yesterday; and yet, with no more than the protection of existing laws, they are already at the point of close and promising competition. Sir, nothing is more unphilosophical than to refer us, on these subjects, to the policy adopted by other nations in a very different state of society, or to infer that what was judged expedient by them, in their early history, must also be expedient for us, in this early part of our own. This would be reckoning our age chronologically, and estimating our advance by our number of years; when, in truth, we should regard only the state of society, the knowledge, the skill, the capital, and the enterprise which belong to our times. We have been transferred from the stock of Europe, in a comparatively enlightened age, and our civilization and improvement date as far back as her own. Her original history is also our original history; and if, since the moment of separation, she has gone ahead of us in some respects, it may be said, without violating truth, that we have kept up in others,

and, in others again, are head ourselves. We are to legislate, then, with regard to the present actual state of society; and our own experience shows us, that, commencing manufactures at the present highly enlightened and emulous moment, we need not resort to the clumsy helps with which, in less auspicious times, governments have sought to enable the ingenuity and industry of their people to hobble along.

The English cotton manufactures began about the commencement of the last reign. Ours can hardly be said to have commenced with any earnestness, until the application of the power-loom, in 1814, not more than ten years ago. Now, Sir, I hardly need again speak of its progress, its present extent, or its assurance of future enlargement. In some sorts of fabrics we are already exporters, and the products of our factories are, at this moment, in the South American markets. We see, then, what *can* be done without prohibition or extraordinary protection, because we see what *has* been done; and I venture to predict, that, in a few years, it will be thought wonderful that these branches of manufactures, at least, should have been thought to require additional aid from government.

Mr. Chairman, the best apology for laws of prohibition and laws of monopoly will be found in that state of society, not only unenlightened but sluggish, in which they are most generally established. Private industry, in those days, required strong provocatives, which governments were seeking to administer by these means. Something was wanted to actuate and stimulate men, and the prospects of such profits as would, in our times, excite unbounded competition, would hardly move the sloth of former ages. In some instances, no doubt, these laws produced an effect, which, in that period, would not have taken place without them. But our age is of a wholly different character, and its legislation takes another turn. Society is full of excitement; competition comes in place of monopoly; and intelligence and industry ask only for fair play and an open field. Profits, indeed, in such a state of things, will be small, but they will be extensively diffused; prices will be low, and the great body of the people prosperous and happy. It is worthy of remark, that, from the operation of these causes, commercial wealth, while it is increased beyond calculation in its general aggregate, is, at the same time, broken and diminished in its

subdivisions. Commercial prosperity should be judged of, therefore, rather from the extent of trade, than from the magnitude of its apparent profits. It has been remarked, that Spain, certainly one of the poorest nations, made very great profits on the amount of her trade; but with little other benefit than the enriching of a few individuals and companies. Profits to the English merchants engaged in the Levant and Turkey trade were formerly very great, and there were richer merchants in England some centuries ago, considering the comparative value of money, than at the present highly commercial period. When the diminution of profits arises from the extent of competition, it indicates rather a salutary than an injurious change.*

The true course then, Sir, for us to pursue, is, in my opinion, to consider what our situation is; what our means are; and how they can be best applied. What amount of population have we in comparison with our extent of soil, what amount of capital, and labor at what price? As to skill, knowledge, and enterprise, we may safely take it for granted that in these particulars we are on an equality with others. Keeping these considerations in view, allow me to examine two or three of those provisions of the bill to which I feel the strongest objections.

To begin with the article of iron. Our whole annual consumption of this article is supposed by the chairman of the committee to be forty-eight or fifty thousand tons. Let us suppose the latter. The amount of our own manufacture he estimates, I think, at seventeen thousand tons. The present duty on the imported article is $ 15 per ton, and as this duty causes, of course, an equivalent augmentation of the price of the home manufacture, the whole increase of price is equal to $ 750,000 annually. This sum we pay on a raw material, and on an absolute necessary of life. The bill proposes to raise the duty from $ 15 to $ 22.50 per ton, which would be equal to $ 1,125,000 on the whole annual consumption. So that, suppose the point of

* "The present equable diffusion of moderate wealth cannot be better illustrated, than by remarking that in this age many palaces and superb mansions have been pulled down, or converted to other purposes, while none have been erected on a like scale. The numberless baronial castles and mansions, in all parts of England, now in ruins, may all be adduced as examples of the decrease of inordinate wealth. On the other hand, the multiplication of commodious dwellings for the upper and middle classes of society, and the increased comforts of all ranks, exhibit a picture of individual happiness, unknown in any other age.' — *Sir G. Blane's Letter to Lord Spencer, in* 1800.

prohibition which is aimed at by some gentlemen to be attained, the consumers of the article would pay this last-mentioned sum every year to the producers of it, over and above the price at which they could supply themselves with the same article from other sources. There would be no mitigation of this burden, except from the prospect, whatever that might be, that iron would fall in value, by domestic competition, after the importation should be prohibited. It will be easy, I think, to show that it cannot fall; and supposing for the present that it shall not, the result will be, that we shall pay annually the sum of $1,125,000, constantly augmented, too, by increased consumption of the article, *to support a business that cannot support itself.*

It is of no consequence to the argument, that this sum is expended at home; so it would be if we taxed the people to support any other useless and expensive establishment, to build another Capitol, for example, or incur an unnecessary expense of any sort. The question still is, Are the money, time, and labor well laid out in these cases? The present price of iron at Stockholm, I am assured by importers, is $53 per ton on board, $48 in the yard before loading, and probably not far from $40 at the mines. Freight, insurance, &c., may be fairly estimated at $15, to which add our present duty of $15 more, and these two last sums, together with the cost on board at Stockholm, give $83 as the cost of Swedes iron in our market. In fact, it is said to have been sold last year at $81.50 to $82 per ton. We perceive, by this statement, that the cost of the iron is doubled in reaching us from the mine in which it is produced. In other words, our present duty, with the expense of transportation, gives an advantage to the American over the foreign manufacturer of one hundred per cent. Why, then, cannot the iron be manufactured at home? Our ore is said to be as good, and some of it better. It is under our feet, and the chairman of the committee tells us that it might be wrought by persons who otherwise will not be employed. Why, then, is it not wrought? Nothing could be more sure of constant sale. It is not an article of changeable fashion, but of absolute, permanent necessity, and such, therefore, as would always meet a steady demand. Sir, I think it would be well for the chairman of the committee to revise his premises, for I am persuaded that there is an ingredient properly belonging to the calculation which he has mis-

stated or omitted. Swedes iron in England pays a duty, I think, of about $27 per ton; yet it is imported in considerable quantities, notwithstanding the vast capital, the excellent coal, and, more important than all perhaps, the highly improved state of inland navigation in England; although I am aware that the English use of Swedes iron may be thought to be owing in some degree to its superior quality.

Sir, the true explanation of this appears to me to lie in the different prices *of labor;* and here I apprehend is the grand mistake in the argument of the chairman of the committee. He says it would cost the nation, as a nation, nothing, to make our ore into iron. Now, I think it would cost us precisely that which we can worst afford; that is, great *labor.* Although bar-iron is very properly considered a raw material in respect to its various future uses, yet, as bar-iron, the principal ingredient in its cost is labor. Of manual labor, no nation has more than a certain quantity, nor can it be increased at will. As to some operations, indeed, its place may be supplied by machinery; but there are other services which machinery cannot perform for it, and which it must perform for itself. A most important question for every nation, as well as for every individual, to propose to itself, is, how it can best apply that quantity of labor which it is able to perform. Labor is the great producer of wealth; it moves all other causes. If it call machinery to its aid, it is still employed, not only in using the machinery, but in making it. Now, with respect to the quantity of labor, as we all know, different nations are differently circumstanced. Some need, more than any thing, work for hands, others require hands for work; and if we ourselves are not absolutely in the latter class, we are still most fortunately very near it. I cannot find that we have those idle hands, of which the chairman of the committee speaks. The price of labor is a conclusive and unanswerable refutation of that idea; it is known to be higher with us than in any other civilized state, and this is the greatest of all proofs of general happiness. Labor in this country is independent and proud. It has not to ask the patronage of capital but capital solicits the aid of labor. This is the general truth in regard to the condition of our whole population, although in the large cities there are doubtless many exceptions. The mere capacity to labor in common agricultural employments, gives to our

young men the assurance of independence. We have been asked, Sir, by the chairman of the committee, in a tone of some pathos, whether we will allow to the serfs of Russia and Sweden the benefit of making iron for us. Let me inform the gentleman, Sir, that those same serfs do not earn more than seven cents a day, and that they work in these mines for that compensation because they are serfs. And let me ask the gentleman further, whether we have any labor in this country that cannot be better employed than in a business which does not yield the laborer more than seven cents a day? This, it appears to me, is the true question for our consideration. There is no reason for saying that we will work iron because we have mountains that contain the ore. We might for the same reason dig among our rocks for the scattered grains of gold and silver which might be found there. The true inquiry is, Can we produce the article in a useful state at the same cost, or nearly at the same cost, or at any reasonable approximation towards the same cost, at which we can import it?

Some general estimates of the price and profits of labor, in those countries from which we import our iron, might be formed by comparing the reputed products of different mines, and their prices, with the number of hands employed. The mines of Danemora are said to yield about 4,000 tons, and to employ in the mines twelve hundred workmen. Suppose this to be worth $50 per ton; any one will find by computation, that the whole product would not pay, in this country, for one quarter part of the necessary labor. The whole export of Sweden was estimated, a few years ago, at 400,000 ship pounds, or about 54,000 tons. Comparing this product with the number of workmen usually supposed to be employed in the mines which produce iron for exportation, the result will not greatly differ from the foregoing. These estimates are general, and might not conduct us to a precise result; but we know, from intelligent travellers, and eyewitnesses, that the price of labor in the Swedish mines does not exceed seven cents a day.*

* The price of labor in Russia may be pretty well collected from Tooke's "View of the Russian Empire." "The workmen in the mines and the founderies are, indeed, all called master-people; but they distinguish themselves into masters, under-masters, apprentices, delvers, servants, carriers, washers, and separators. In proportion to their ability their wages are regulated, which proceed from fifteen to upwards of thirty roubles per annum. The provisions which

The true reason, Sir, why it is not our policy to compel our citizens to manufacture our own iron, is, that they are far better employed. It is an unproductive business, and they are not poor enough to be obliged to follow it. If we had more of poverty, more of misery, and something of servitude, if we had an ignorant, idle, starving population, we might set up for iron makers against the world.

The committee will take notice, Mr. Chairman, that, under our present duty, together with the expense of transportation, our manufacturers are able to supply their own immediate neighborhood; and this proves the magnitude of that substantial encouragement which these two causes concur to give. There is little or no foreign iron, I presume, used in the county of Lancaster. This is owing to the heavy expense of land carriage; and, as we recede farther from the coast, the manufacturers are still more completely secured, as to their own immediate market, against the competition of the imported article. But what they ask is to be allowed to supply the sea-coast, at such a price as shall be formed by adding to the cost at the mines the expense of land carriage to the sea; and this appears to me most unreasonable. The effect of it would be to compel the consumer to pay the cost of two land transportations; for, in the first place, the price of iron at the inland furnaces will always be found to be at, or not much below, the price of the imported article in the seaport, and the cost of transportation to the neighborhood of the furnace; and to enable the home product to hold a competition with the imported in the seaport, the cost of another transportation downward, from the furnace to the coast, must be added. Until our means of inland commerce be improved, and the charges of transportation by that means lessened, it appears to me wholly impracticable, with such duties as any one would think of proposing, to meet the wishes of the manufacturers of this article. Suppose we were to add the

they receive from the magazines are deducted from this pay." The value of the rouble at that time (1799) was about twenty-four pence sterling, or forty-five cents of our money.

"By the edict of 1799," it is added, "a laborer with a horse shall receive, daily, in summer, twenty, and in winter, twelve copecks; a laborer without a horse, in summer, ten, in winter, eight copecks."

A copeck is the hundreth part of a rouble, or about half a cent of our money. The price of labor may have risen, in some degree, since that period, but probably not much.

duty proposed by this bill, although it would benefit the capital invested in works near the sea and the navigable rivers, yet the benefit would not extend far in the interior. Where, then, are we to stop, or what limit is proposed to us?

The freight of iron has been afforded from Sweden to the United States as low as eight dollars per ton. This is not more than the price of fifty miles of land carriage. Stockholm, therefore, for the purpose of this argument, may be considered as within fifty miles of Philadelphia. Now, it is at once a just and a strong view of this case, to consider, that there are, within fifty miles of our market, vast multitudes of persons who are willing to labor in the production of this article for us, at the rate of seven cents per day, while we have no labor which will not command, upon the average, at least five or six times that amount. The question is, then, shall we buy this article of these manufacturers, and suffer our own labor to earn its greater reward, or shall we employ our own labor in a similar manufacture, and make up to it, by a tax on consumers, the loss which it must necessarily sustain.

I proceed, Sir, to the article of hemp. Of this we imported last year, in round numbers, 6,000 tons, paying a duty of $30 a ton, or $180,000 on the whole amount; and this article, it is to be remembered, is consumed almost entirely in the uses of navigation. The whole burden may be said to fall on one interest. It is said we can produce this article if we will raise the duties. But why is it not produced now? or why, at least, have we not seen some specimens? for the present is a very high duty, when expenses of importation are added. Hemp was purchased at St. Peter burg, last year, at $101.67 per ton. Charges attending shipment, &c., $14.25. Freight may be stated at $30 per ton, and our existing duty $30 more. These three last sums, being the charges of transportation, amount to a protection of near seventy-five per cent. in favor of the home manufacturer, if there be any such. And we ought to consider, also, that the price of hemp at St. Petersburg is increased by all the expense of transportation from the place of growth to that port; so that probably the whole cost of transportation, from the place of growth to our market, including our duty, is equal to the first cost of the article; or, in other words, is a protection in favor of our own product of one hundred per cent.

And since it is stated that we have great quantities of fine and for the production of hemp, of which I have no doubt, the question recurs, Why is it not produced? I speak of the water-rotted hemp, for it is admitted that that which is dew-rotted is not sufficiently good for the requisite purposes. I cannot say whether the cause be in climate, in the process of rotting, or what else, but the fact is certain, that there is no American water-rotted hemp in the market. We are acting, therefore, upon an hypothesis. Is it not reasonable that those who say that they *can* produce the article shall at least prove the truth of that allegation, before new taxes are laid on those who use the foreign commodity? Suppose this bill passes; the price of hemp is immediately raised $14.80 per ton, and this burden falls immediately on the ship-builder; and no part of it, for the present, will go for the benefit of the American grower, because he has none of the article that can be used, nor is it expected that much of it will be produced for a considerable time. Still the tax takes effect upon the imported article; and the ship-owners, to enable the Kentucky farmer to receive an additional $14 on his ton of hemp, whenever he may be able to raise and manufacture it, pay, in the mean time, an equal sum per ton into the treasury on all the imported hemp which they are still obliged to use; and this is called "protection!" Is this just or fair? A particular interest is here burdened, not only for the benefit of another particular interest, but burdened also beyond that, for the benefit of the treasury. It is said to be important for the country that this article should be raised in it; then let the country bear the expense, and pay the bounty. If it be for the good of the whole, let the sacrifice be made by the whole, and not by a part. If it be thought useful and necessary, from political considerations, to encourage the growth and manufacture of hemp, government has abundant means of doing it. It might give a direct bounty, and such a measure would, at least, distribute the burden equally; or, as government itself is a great consumer of this article, it might stipulate to confine its own purchases to the home product, so soon as it should be shown to be of the proper quality. I see no objection to this proceeding, if it be thought to be an object to encourage the production. It might easily, and perhaps properly, be provided by law, that the navy should be supplied with American hemp, the quality being

good, at any price not exceeding, by more than a given amount, the current price of foreign hemp in our market. Every thing conspires to render some such course preferable to the one now proposed. The encouragement in that way would be ample, and, if the experiment should succeed, the whole object would be gained; and if it should fail, no considerable loss or evil would be felt by any one.

I stated, some days ago, and I wish to renew the statement, what was the amount of the proposed augmentation of the duties on iron and hemp, in the cost of a vessel. Take the case of a common ship of three hundred tons, not coppered, nor copper-fastened. It would stand thus, by the present duties: —

14½ tons of iron, for hull, rigging, and anchors, at $15 per ton,	$217.50
10 tons of hemp, at $30,	300.00
40 bolts Russia duck, at $2,	80.00
20 bolts Ravens duck, at $1.25,	25.00
On articles of ship-chandlery, cabin furniture, hardware, &c.,	40.00
	$662.50

The bill proposes to add, —

$7.40 per ton on iron, which will be	$107.30
$14.80 per ton on hemp, equal to	148.00
And on duck, by the late amendment of the bill, say 25 per cent.,	25.00
	$280.30

But to the duties on iron and hemp should be added those paid on copper, whenever that article is used. By the statement which I furnished the other day, it appeared that the duties received by government on articles used in the construction of a vessel of three hundred and fifty-nine tons, with copper fastenings, amounted to $1,056. With the augmentations of this bill, they would be equal to $1,400.

Now I cannot but flatter myself, Mr. Chairman, that, before the committee will consent to this new burden upon the shipping interest, it will very deliberately weigh the probable consequences. I would again urgently solicit its attention to the con-

dition of that interest. We are told that government has protected it, by discriminating duties, and by an exclusive right to the coasting trade. But it would retain the coasting trade, by its own natural efforts, in like manner, and with more certainty, than it now retains any portion of foreign trade. The discriminating duties are now abolished, and while they existed, they were nothing more than countervailing measures; not so much designed to give our navigation an advantage over that of other nations, as to put it upon an equality; and we have, accordingly, abolished ours, when they have been willing to abolish theirs. Look to the rate of freights. Were they ever lower, or even so low? I ask gentlemen who know, whether the harbor of Charleston, and the river of Savannah, be not crowded with ships seeking employment, and finding none? I would ask the gentlemen from New Orleans, if their magnificent Mississippi does not exhibit, for furlongs, a forest of masts? The condition, Sir, of the shipping interest is not that of those who are insisting on high profits, or struggling for monopoly; but it is the condition of men content with the smallest earnings, and anxious for their bread. The freight of cotton has formerly been three pence sterling, from Charleston to Liverpool, in time of peace. It is now I know not what, or how many fractions of a penny; I think, however, it is stated at five eighths. The producers, then, of this great staple, are able, by means of this navigation, to send it, for a cent a pound, from their own doors to the best market in the world.

Mr. Chairman, I will now only remind the committee that, while we are proposing to add new burdens to the shipping interest, a very different line of policy is followed by our great commercial and maritime rival. It seems to be announced as the sentiment of the government of England, and undoubtedly it is its real sentiment, that the first of all manufactures is the manufacture of ships. A constant and wakeful attention is paid to this interest, and very important regulations, favorable to it, have been adopted within the last year, some of which I will beg leave to refer to, with the hope of exciting the notice, not only of the committee, but of all others who may feel, as I do, a deep interest in this subject. In the first place, a general amendment has taken place in the register acts, introducing many new provisions, and, among others, the following:—

A direct mortgage of the interest of a ship is allowed, without subjecting the mortgagee to the responsibility of an owner

The proportion of interest held by each owner is exhibited in the register, thereby facilitating both sales and mortgages, and giving a new value to shipping among the moneyed classes.

Shares, in the ships of copartnerships, may be registered as joint property, and subject to the same rules as other partnership effects.

Ships may be registered in the name of trustees, for the benefit of joint-stock companies.

And many other regulations are adopted, with the same general view of rendering the mode of holding the property as convenient and as favorable as possible.

By another act, British registered vessels, of every description, are allowed to enter into the general and the coasting trade in the India seas, and may now trade to and from India, with any part of the world, except China.

By a third, all limitations and restrictions, as to latitude and longitude, are removed from ships engaged in the Southern whale-fishery. These regulations, I presume, have not been made without first obtaining the consent of the East India Company; so true is it found, that real encouragement of enterprise oftener consists, in our days, in restraining or buying off monopolies and prohibitions, than in imposing or extending them.

The trade with Ireland is turned into a free coasting trade; light duties have been reduced, and various other beneficial arrangements made, and still others proposed. I might add, that, in favor of general commerce, and as showing their confidence in the principles of liberal intercourse, the British government has perfected the warehouse system, and authorized a reciprocity of duties with foreign states, at the discretion of the Privy Council.

This, Sir, is the attention which our great rival is paying to these important subjects, and we may assure ourselves that, if we do not cherish a proper sense of our own interests, she will not only beat us, but will deserve to beat us.

Sir, I will detain you no longer. There are some parts of this bill which I highly approve; there are others in which I should acquiesce; but those to which I have now stated my

objections appear to me so destitute of all justice, so burdensome and so dangerous to that interest which has steadily enriched, gallantly defended, and proudly distinguished us, that nothing can prevail upon me to give it my support.*

* Since the delivery of this speech, an arrival has brought London papers containing the speech of the English Chancellor of the Exchequer (Mr. Robinson), on the 23d of February last, in submitting to Parliament the annual financial statement. Abundant confirmation will be found in that statement of the remarks made in the preceding speech, as to the prevailing sentiment, in the English government, on the general subject of prohibitory laws, and on the silk manufacture and the wool tax particularly.

THE JUDICIARY.*

At the first session of the Nineteenth Congress a bill was introduced into the House of Representatives, by Mr. Webster, from the Committee on the Judiciary, which proposed that the Supreme Court of the United States should thenceforth consist of a chief justice and nine associate justices, and provided for the appointment of three additional associate justices of said court, and that the seventh Judicial Circuit Court of the United States should consist of the districts of Ohio, Indiana, and Illinois; the eighth circuit, of the districts of Kentucky and Missouri; the ninth circuit. of the districts of Tennessee and Alabama; and the tenth circuit, of the districts of Louisiana and Mississippi.

It repealed so much of any act or acts of Congress as vested in the District Courts of the United States in the districts of Indiana, Illinois, Missouri, Mississippi, Alabama, and Louisiana, the powers and jurisdiction of Circuit Courts, and provided that there should be thenceforth Circuit Courts for said districts, to be composed of the justice of the Supreme Court assigned or allotted to the circuit to which such districts might respectively belong, and of the district judge of such districts.

On this bill Mr. Webster spoke as follows: —

The bill which is under the consideration of the committee is so simple in its provisions, and so unembarrassed with detail, that little or nothing in the way of explanation merely is probably expected from the committee. But the general importance of the subject, and the material change which the proposed measure embraces, demands some exposition of the reasons which have led the Committee on the Judiciary to submit it to the consideration of the House.

The occasion naturally presents two inquiries: first, whether any evils exist in the administration of justice in the courts of

* Remarks made in the House of Representatives of the United States, on the 4th of January, 1826, on the Bill to amend the Judiciary System.

the United States; and secondly, whether, if there be such evils, the proposed bill is a proper and suitable remedy. On both these points it is my duty to express the sentiments which the Committee on the Judiciary entertain. Perhaps, however, Mr. Chairman, before entering into a discussion of these two questions, I may be allowed to state something of the history of this department of the government, and to advert to the several laws which have been, from time to time, enacted respecting its organization.

The judicial power, which, by the Constitution, was to be exercised by the present government, necessarily engaged the attention of the first Congress. The subject fell into the hands of very able men, and it may well excite astonishment that the system which they prepared and recommended, and which was adopted in the hurried session of the summer of 1789, has thus far been found to fulfil, so well and for so long a time, the great purposes which it was designed to accomplish. The general success of the general system, so far, may well inspire some degree of caution in the minds of those who are called on to alter or amend it.

By the original act of September, 1789, there was to be a Supreme Court, according to the Constitution, which was to consist of six judges, and to hold two sessions a year at the seat of government. The United States, or such of them as had then adopted the Constitution, were to be divided into circuits and districts, and there was to be a District Court in each district, holden by a district judge. The districts were divided into three circuits, the Eastern, the Middle, and the Southern; and there was to be a Circuit Court in each district, to be composed of two of the justices of the Supreme Court, and the district judge for the district. This Circuit Court was to hold two sessions a year in each district, and I need not inform the committee, that the great mass of business, excepting only that of admiralty and maritime jurisdiction, belonged to the Circuit Court as a court of original jurisdiction. It entertained appeals, or writs of error, also, from the decisions of the District Courts, in all cases.

By this arrangement, then, the justices of the Supreme Court were required to hold two sessions of that court annually, at the seat of government, to hear appeals and causes removed by

writs of error; and it was required of them also, that two of them should attend in each district twice a year, to hold, with the district judge, a Circuit Court.

It was found that these duties were so burdensome, that they could not be performed. In November, 1792, the judges addressed the President on the subject, (who laid their communication before Congress,) setting forth their inability to perform the services imposed on them by law, without exertions and sacrifices too great to be expected from any men. It was, doubtless, this communication which produced the law of March, 1793, by which it was provided that one judge of the Supreme Court, with the district judge, should constitute the Circuit Court. And, inasmuch as the courts would now consist of two judges, provision was made, perhaps sufficiently awkward and inconvenient, for the case of difference of opinion. It will be observed, Mr. Chairman, that by these laws, thus far, particular justices are not assigned to particular circuits. Any two judges of the Supreme Court, under the first law, and any one, under that of 1793, with the district judge, constituted a Circuit Court. A change, or alternation, of the judges was contemplated by the law. It was accordingly provided by the act of 1793, that, in case of division of opinion, as the court consisted of but two judges, the question should be continued to the next session, and, if a different judge then appeared, and his opinion coincided with that of his predecessor, judgment should go accordingly.

And here, Mr. Chairman, I wish to observe, that, in my opinion, the original plan of holding the Circuit Courts by different judges, from time to time, was ill-judged and founded on a false analogy. It seems to have been borrowed from the English Courts of Assize and *Nisi Prius;* but the difference in the powers and jurisdiction of the judges in the two cases rendered what was proper for one not a fit model for the other. The English judges at *Nisi Prius*, so far as civil causes are concerned, have nothing to do but try questions of fact by the aid of a jury, on issues or pleadings already settled in the court from which the record proceeds. They give no final judgments; nor do they make interlocutory orders respecting the proceeding and progress of the cause. They take a verdict of the jury on the issues already joined between the parties, and give no other

directions in matters of law, than such as become necessary in the course of this trial by jury. Every case begun, therefore, is ordinarily finished. Nothing of that case remains for the judge's successor. If it be tried, the record is taken back with the verdict to Westminster Hall; if it be not tried, the whole case remains for a subsequent occasion. It is, perhaps, surprising, that the very able men who framed the first judicial act did not see the great difference between this manner of proceeding at the English Assizes, and the necessary course of proceeding in our Circuit Courts, with the powers and jurisdictions conferred on those courts. These are courts of final jurisdiction; they not only take verdicts, but give judgments. Here suits are brought, proceeded with through all their stages, tried, and finally determined. And as, in the progress of suits, especially those of equity jurisdiction, it necessarily happens that there are different stages, and successive orders become necessary from term to term, it happened, of course, that the judge was often changed before the cause was decided; he who heard the end had not heard the beginning. When to this is added, that these judges were bred in different schools, and, as to matters of practice, especially, accustomed to different usages, it will be easy to perceive that no small difficulties were to be encountered in the ordinary despatch of business. So, in cases reserved for advisement and further consideration, the judge reserving the question was not the judge to decide it. He who heard the argument was not to make the decision. Without pursuing this part of the case farther, it is quite obvious that such a system could not answer the ends of justice. The courts, indeed, were called Circuit Courts, which seemed to imply an itinerant character; but, in truth, they resembled much more, in their power and jurisdiction, the English courts sitting in bench, than the Assizes, to which they appear to have been likened.

The act of 1793, by requiring the attendance of only one, instead of two, of the judges of the Supreme Court on the circuits, of course diminished by one half the circuit labors of those judges.

We then come to the law of February, 1801. By this act, the judges of the Supreme Court were relieved from all circuit duties. Provision was made that their number should be reduced, on the first vacancy, from six to five. They were still to

hold two sessions annually of the Supreme Court, and circuit judges were appointed to hold the Circuit Court in each district. The provisions of this law are generally known, and it is not necessary to recite them particularly. It is enough to say, that, in five of the six circuits, the Circuit Court was to consist of three judges, specially appointed to constitute such court; and in the sixth, of one judge, specially appointed, and the district judge of the district.

We all know, Sir, that this law lasted but a twelvemonth. It was repealed *in toto* by the act of the 8th of March, 1802; and a new organization of the Circuit Courts was provided for by the act of the 29th of April of that year. It must be admitted, I think, Sir, that this act made considerable improvements upon the system, as it existed before the act of February, 1801. It took away the itinerary character of the Circuit Courts, by assigning particular justices to particular circuits. This, in my opinion, was a great improvement. It conformed the constitution of the court to the nature of the powers which it exercised. The same judges now heard the cause through all the stages of its progress, and the court became, what its duties properly made it, a court of record, with permanent judges, exercising a various jurisdiction, trying causes at its bar by jury, in cases proper for the intervention of a jury, and rendering final judgments. This act also provided another mode of proceeding with cases in which the two judges composing the Circuit Court should differ in opinion. It prescribed, that such difference should be stated, certified to the Supreme Court, and that that court should decide the question, and certify its decision to the Circuit Court.

In this state of things, the judicial system remained, without material change, until the year 1807, when a law was passed for the appointment of an additional judge of the Supreme Court, and a circuit allotted to him in the Western States.

It may be here observed, that, from the commencement, the system has not been uniform. From the first, there was an anomaly in it. By the original act of September, 1789, a District Court was established for Kentucky (then part of Virginia) and for Maine (then part of Massachusetts), and, in addition to the powers of District Courts, there was conferred on these all the jurisdiction which elsewhere belongs to Circuit Courts, and, in other cases, as new States were added to the Union, District

Courts were established with the powers of Circuit Courts. The same thing has happened, too, when States have been divided into two districts. There are, at present, several States which have no Circuit Court except the District Court, and there are other States which are divided into more than one district, and in some of which Districts there is but a District Court with Circuit Court jurisdiction; so that it cannot be said that the system has been at any time entirely uniform.

So much, Mr. Chairman, for the history of our legislation on the judicial department.

I am not aware, Mr. Chairman, that there is any public complaint of the operation of the present system, so far as it applies to the Atlantic States. So far as I know, justice has been administered efficiently, promptly, and satisfactorily, in all those circuits. The judges, perhaps, have a good deal of employment: but they have been able to go through their arduous duties in such manner as to leave no cause of complaint, as far as I am informed. For my own part, I am not sanguine enough to expect, as far as those circuits are concerned, that any improvement can be made. In my opinion, none is needed. But it is not so in the Western States. Here exists a great deficiency. The country has outgrown the system. This is no man's fault, nor does it impute want of usual foresight to any one. It would have seemed chimerical in the framers of the law of 1789, if they had professed to strike out a plan which should have been adequate to the exigencies of the country, as it actually exists in 1826. From a period as far back as the close of the late war, the people of the West have applied to Congress on the subject of the courts. No session of Congress has passed without an attempt, in one or the other house, to produce some change; and although various projects have been presented, the inherent difficulties of the subject have prevented any efficient action of the legislature. I will state shortly, Sir, and as nearly as I remember, what has been at different times proposed.

In the first place, it has been proposed to recur to the system of Circuit Courts, upon the principle, although not exactly after the model, of the act of February, 1801. A bill of this character passed the Senate in 1819, dividing the country into nine circuits, and providing for the appointment of one circuit judge to each circuit, who with the district judge of the district should

constitute the Circuit Court. It also provided, that the Supreme Court, as vacancies should occur, should be reduced to five members. This bill, I believe, was not acted upon in this House. Again, it has been proposed to constitute Circuit Courts by the union of the district judges in the circuit. It has been proposed, also, to extend the existing system somewhat in conformity to the object of the present bill, by adding to the number of the judges in the Supreme Court. And a different arrangement still has been suggested, which contemplates the appointment of circuit judges for some districts, and the continued performance of circuit duties by the supreme judges in others, with such legal provision as shall not attach the judges of the Supreme Court, in the performance of their circuit duties, unequally to any part of the country, but allow them to be distributed equally and fairly over the whole. This system, though somewhat complex, and perhaps liable to be misunderstood, is, I confess, what appears to me best of all suited to our condition. It would not make the Supreme Court too numerous; and it would still require from its members the performance of circuit duties; it would allow a proper distribution of these members to every part of the country; and, finally, it would furnish an adequate provision for the despatch of business in the Circuit Courts. Upon this plan, a bill was presented to the House of Representatives at the first session of the last Congress, but it did not meet with general favor; and the fate of a similar proposition elsewhere, at a subsequent period, discourages any revival of it.

I now come, Sir, to consider whether any, and what, evils exist; and then, whether the present bill be a suitable remedy. And in the first place, it is said, perhaps with some justice, that the business of the Supreme Court itself is not gone through with sufficient promptitude; that it is accumulating; that great delays are experienced, and greater delays feared. As to this, I would observe, that the annual session of the court cannot last above six or seven weeks, because it commences in February, and the circuit duties of the judges require them to leave this place the latter part of March. But I know no reason why the judges should not assemble earlier. I believe it would not materially interfere with their circuit duties, to commence the session here in the early part of January; and if that were the case,

I have little doubt that, in two years, they would clear the docket. A bill to make this change passed this House two years ago; I regret to say, it was not acted upon in the Senate.

As to returning to the original practice of having two sessions of the Supreme Court within the year, I incline to think it wholly inexpedient. The inconvenience arising from the distance of suitors and counsel from the seat of government forms a decisive objection to that proposition.

The great evil, however, Sir, at present experienced, and that which calls most loudly and imperatively for a remedy, is the state of business in the Circuit Courts in the Western States. The seventh circuit consists of Kentucky, Ohio, and Tennessee. All the other Western States have District Courts, with the powers of Circuit Courts. I am clearly of opinion, that some further provision is required of us for the administration of justice in these States. The existing means are not equal to the end. The judicial organization is not competent to exercise the jurisdiction which the laws confer upon it. There is a want of men, and a want of time. In this respect, it appears to me that our constitutional duty is very plain. The Constitution confers certain judicial powers on the government of the United States; we undertake to provide for the exercise of these powers; but the provision is inadequate, and the powers are not exercised. By the Constitution, the judicial power of this government extends, as well as to other things, to causes between citizens of different States. We open courts professedly to exercise that jurisdiction; but they are not competent to it; it is not exercised with reasonable promptitude; the suitor is delayed, and the end of the constitutional provision, in some measure, defeated. Now, it appears to me very plain, that we should either refuse to confer this jurisdiction on the courts, or that we should so constitute them that it may be efficiently exercised.

I hold, Sir, the certificate of the clerk for the District and Circuit Court of the District of Kentucky, that there are now pending in those courts nine hundred and fifty causes. As this is not a maritime district, most of these causes, doubtless, are in the Circuit Court. This accumulation has not arisen from any want of diligence in the judges themselves, for the same paper states, that two thousand causes have been disposed of within the last three years. The Memorial of the Bar of Nashville in-

forms us that one hundred and sixty cases are pending in the Circuit Court for the Western District of Tennessee; a number, perhaps, not much less, is on the docket of the court for the Eastern District of Tennessee; and I am authorized to state that two hundred or two hundred and fifty may be taken as the number of suits pending in the Circuit Court of Ohio. These three States, Sir, constitute one circuit; they extend over a wide region; the places for holding the courts are at vast distances from one another; and it is not within the power of man, that the judge assigned to this circuit should get through the duties of his station. With the state of the courts in the other Western and Southwestern States, I am not so particularly acquainted. Gentlemen from those States will make it known to the committee. I know enough, however, to be satisfied that the whole case calls for attention. It grows no better by delay, and, whatever difficulties embarrass it, we may as well meet them at once, and agree upon such remedy as shall, upon the whole, seem most expedient.

And this, Sir, brings me to the most difficult part of our inquiry; that is to say, whether such a measure as this bill proposes be the proper remedy. I beg to say, Sir, that I feel this difficulty as deeply as it can be felt by any member of the committee; and while I express my own opinions, such as they are, I shall be most happy to derive light from the greater experience, or the better intelligence, of any gentleman. To me it appears, that we are brought to the alternative of deciding between something like what this bill proposes, and the Circuit Court system, as provided in the bill of the Senate in 1819. As a practical question, I think it has come to this point: Shall we extend the present system, by increasing the number of the judges, or shall we recur to the system of Circuit Courts? I invoke the attention of the committee to this question, because, thinking the one or the other inevitable, I wish for the mature judgment of the House on both.

In favor of the Circuit Court system, it may be said, that it is uniform, and may be made to apply to all the States equally; so that if new States come into the Union, Circuit Courts may be provided for them without derangement to the general organization. This, doubtless, is a consideration entitled to much weight. It is said, also, that by separating the judges of the Supreme Court from the circuits, we shall leave them ample

time for the discharge of the high duties of their appellate jurisdiction. This, no doubt, is true; but then, whether it be desirable, upon the whole, to withdraw the judges of the Supreme Court from the circuits, and to confine their labors entirely to the sessions at Washington, is a question which has most deeply occupied my reflections, and in regard to which I am free to confess some change has been wrought in my opinions. With entire respect for the better judgment of others, and doubting, therefore, when I find myself differing from those who are wiser and more experienced, I am still constrained to say, that my judgment is against withdrawing the judges of the Supreme Court from the circuits, if it can be avoided. The reasons which influence this sentiment are general, and perhaps may be thought too indefinite and uncertain to serve as a guide in measures of public importance; they nevertheless appear to me to have weight, and I will state them with frankness, in the hope that, if they are without reasonable foundation, they will be shown to be so, when certainly I shall cheerfully relinquish them.

In the first place, it appears to me that such an intercourse as the judges of the Supreme Court are enabled to have with the profession, and with the people, in their respective circuits, is itself an object of no inconsiderable importance. It naturally inspires respect and confidence, and it produces a reciprocal communication of information through all the branches of the judicial department. This leads to a harmony of opinion and of action. The Supreme Court, by itself, is in some measure insulated; it has not frequent occasions of contact with the community. The bar that attends it is neither numerous nor regular in its attendance. The gentlemen who appear before it, in the character of counsel, come for the occasion, and depart with the occasion. The profession is occupied mainly in the objects which engage it in its own domestic forums; it belongs to the States, and their tribunals furnish its constant and principal theatre. If the judges of the Supreme Court, therefore, are wholly withdrawn from the circuits, it appears to me there is danger of leaving them without the means of useful intercourse with other judicial characters, with the profession of which they are members, and with the public. But, without pursuing these general reflections, I would say, in the second place, that I think it useful that judges should see in practice

the operation and effect of their own decisions. This will prevent theory from running too far, or refining too much. We find, in legislation, that general provisions of law, however cautiously expressed, often require limitation and modification. Something of the same sort takes place in judicature. However beautiful may be the theory of general principles, such is the infinite variety of human affairs, that those most practised in them and conversant with them see at every turn a necessity of imposing restraints and qualifications on such principles. The daily application of their own doctrines will necessarily inspire courts with caution; and, by a knowledge of what takes place upon the circuits and occurs in constant practice, they will be able to decide finally, without the imputation of having overlooked, or not understood, any of the important elements and ingredients of a just decision.

But further, Sir, I must take the liberty of saying, that, in regard to the judicial office, constancy of employment is of itself, in my judgment, a good, and a great good. I appeal to the conviction of the whole profession, if, as a general rule, they do not find that those judges who decide most causes decide them best. Exercise strengthens and sharpens the faculties in this more than in almost any other employment. I would have the judicial office filled by him who is wholly a judge, always a judge, and nothing but a judge. With proper seasons, of course, for recreation and repose, his serious thoughts should all be turned to his official duties; he should be *omnis in hoc*. I think, Sir, there is hardly a greater mistake than has prevailed occasionally in some of the States, of creating many judges, assigning them duties which occupy but a small part of their time, and then making this the ground for allowing them a small compensation. The judicial power is incompatible with any other pursuit in life; and all the faculties of every man who takes it ought to be constantly exercised, and exercised to one end. Now, Sir, it is natural, that, in reasoning on this subject, I should take my facts from what passes within my own means of observation. If I am mistaken in my premises, the conclusion, of course, ought to be rejected. But I suppose it will be safe to say, that a session of eight weeks in the year will probably be sufficient for the decision of causes in the Supreme Court; and, reasoning from what exists in one of the most considerable circuits in the

Atlantic States, I suppose that eight, ten, or at most twelve weeks, may be the average of the time requisite to be spent by a circuit judge in his court in those circuits. If this be so, then, if the courts be separated, we have supreme judges occupied two months out of twelve, and circuit judges occupied three months out of twelve. In my opinion, this is not a system either to make or to keep good judges. The Supreme Court exercises a great variety of jurisdiction. It reverses decisions at common law, in equity, and in admiralty; and with the theory and the practice of all these systems it is indispensable that the judges should be accurately and intimately acquainted. It is for the committee to judge how far the withdrawing them from the circuits, and confining them to the exercise of an appellate jurisdiction, may increase or diminish this information. But, again, Sir, we have a great variety of local laws existing in this country, which are the standard of decision where they prevail. The laws of New England, Maryland, Louisiana, and Kentucky are almost so many different codes. These laws are to be construed and administered, in many cases, in the courts of the United States. Is there any doubt that a judge coming on the bench of the Supreme Court with a familiar acquaintance with these laws, derived from daily practice and decisions, must be more able both to form his own judgment correctly, and to assist that of his brethren, than a stranger who only looks at the theory? This is a point too plain to be argued. Of the weight of the suggestion the committee will judge. It appears to me, I confess, that a court remotely situated, a stranger to these local laws in their application and practice, with whatever diligence or with whatever ability, must be liable to fall into great mistakes.

May I ask your indulgence, Mr. Chairman, to suggest one other idea. With no disposition whatever to entertain doubts as to the manner in which the executive duty of appointments shall at any time hereafter be performed, the Supreme Court is so important, that, in whatever relates to it, I am willing to make assurance doubly sure, and to adopt, therefore, whatever fairly comes in my way likely to increase the probability that able and efficient men will be placed upon that bench. Now I confess that I know nothing which I think more conducive to that end than the assigning to the members of that court important, responsible, individual duties. Whatsoever makes the individual

prominent, conspicuous, and responsible increases the probability that he will be some one possessing the proper requisites for a judge. It is one thing to give a vote upon a bench (especially if it be a numerous bench) for plaintiff or defendant, and quite another thing to act as the head of a court of various jurisdiction, civil and criminal, to conduct trials by jury, and render judgments in law, equity, and admiralty. While these duties belong to the condition of a judge on the bench, that place will not be a sinecure, nor likely to be conferred without proofs of proper qualifications. For these reasons, I am inclined to wish that the judges of the Supreme Court may not be separated from the circuits, if any other suitable provision can be made.

As to the present bill, Mr. Chairman, it will doubtless be objected, that it makes the Supreme Court too numerous. In regard to that, I am bound to say that my own opinion was, that the present exigency of the country could have been answered by the addition of two members to the court. I believe the three Northwestern States might well enough go on for some time longer, and form a circuit of themselves, perhaps, hereafter, as the population shall increase, and the state of their affairs require it. The addition of the third judge is what I assent to, rather than what I recommend. It is what I would gladly avoid, if I could with propriety. I admit that, for some causes, the court as constituted by the bill will be inconveniently large; for such, especially, as require investigation into matters of fact, such as those of equity and admiralty, and perhaps for all private causes generally. But the great and leading character of the Supreme Court, its most important duties, and its highest functions, have not yet been alluded to. It is its peculiar relation to this government and the State governments, it is the power which it rightfully holds and exercises, of revising the opinions of other tribunals on constitutional questions, as the great practical expounder of the powers of the government, which attaches to this tribunal the greatest attention, and makes it worthy of the most deliberate consideration. Duties at once so important and so delicate impose no common responsibility, and require no common talent and weight of character. A very small court seems unfit for these high functions. These duties, though essentially judicial, partake something of a politica

character. The judges are called on to sit in judgment on the acts of independent States; they control the will of sovereigns; they are liable to be exposed, therefore, to the resentment of wounded sovereign pride; and from the very nature of our system, they are sometimes called on, also, to decide whether Congress has not exceeded its constitutional limits. Sir, there exists not upon the earth, and there never did exist, a judicial tribunal clothed with powers so various, and so important. I doubt the safety of rendering it small in number. My own opinion is, that, if we were to establish Circuit Courts, and to confine their judges to their duties on the bench, their number should not be at all reduced; and if, by some moderate addition to it, other important objects may well be answered, I am prepared to vote for such addition. In a government like ours, entirely popular, care should be taken in every part of the system, not only to do right, but to satisfy the community that right is done. The opinions of mankind naturally attach more respect and confidence to the decisions of a court somewhat numerous, than to those of one composed of a less number. And, for myself, I acknowledge my fear, that, if the number of the court were reduced, and its members wholly withdrawn from the circuits, it might become an object of unpleasant jealousy and great distrust.

Mr. Chairman, I suppose I need not assure the committee that, if I saw any thing in this bill which would lessen the respectability or shake the independence of the Supreme Court, I should be the last man to favor it. I look upon the judicial department of this government as its main support. I am persuaded that the Union could not exist without it. I shall oppose whatever I think calculated to disturb the fabric of government, to unsettle what is settled, or to shake the faith of honest men in the stability of the laws, or the purity of their administration. If any gentleman shall show me that any of these consequences is like to follow the adoption of this measure, I shall hasten to withdraw from it my support. But I think we are bound to do something; and shall be most happy if the wisdom of the House shall suggest a course more free from difficulties than that which is now proposed to it.

FURTHER REMARKS MADE ON THE SAME SUBJECT, ON THE 25TH OF JANUARY, 1826, IN REPLY TO THE ARGUMENTS USED AGAINST THE BILL, AND IN FAVOR OF ITS POSTPONEMENT.

I HAD not intended, Sir, to avail myself of the indulgence which is generally allowed, under circumstances like the present, of making a reply. But the House has been invited with such earnestness to postpone this measure to another year, it has been pressed, with so much apparent alarm, to give no further countenance or support now to the bill, that I reluctantly depart from my purpose, and ask leave to offer a few brief remarks upon the leading topics of the discussion.

This, Sir, must be allowed, and is, on all hands allowed, to be a measure of great and general interest. It respects that important branch of government, the judiciary; and something of a judicial tone of discussion is not unsuitable to the occasion. We cannot treat the question too calmly, or too dispassionately. For myself, I feel that I have no pride of opinion to gratify, no eagerness of debate to be indulged, no competition to be pursued. I hope I may say, without impropriety, that I am not insensible to the responsibility of my own situation as a member of the House, and a member of the committee.* I am aware of no prejudice which should draw my mind from the single and solicitous contemplation of what may be best; and I have listened attentively, through the whole course of this debate, not with the feelings of one who is meditating the means of replying to objections, or escaping from their force, but with an unaffected anxiety to give every argument its just weight, and with a perfect readiness to abandon this measure, at any moment, in favor of any other which should appear to have solid grounds of preference. But I cannot say that my opinion is altered. The measure appears to my mind in the same light as when it was first presented to the House. I then saw some inconveniences attending it, and admitted them. I see them now; but while the effect of this discussion on my own mind has not been to do away entirely the sense of these inconveniences, it has not been, on the other hand, to remove the greater objections which exist to any other plan. I remain fully con-

* Mr. Webster was Chairman of the Judiciary Committee of the House of Representatives, at this session of Congress.

vinced, that this course is, on the whole, that which is freest from difficulties. However plausible other systems may seem in their general outline, objections arise, and thicken as we go into their details. It is not now at all certain that those who are opposed to this bill are agreed as to what other measure should be preferred. On the contrary, it is certain that no plan unites them all; and they act together only on the ground of their common dissatisfaction with the proposed bill. That system which seems most favored is the circuit system, as provided for in the Senate's bill of 1819. But as to that there is not an entire agreement. One provision in that bill was, to reduce the number of the judges of the Supreme Court to five. This was a part, too, of the original resolution of amendment moved by the gentleman from Virginia;* but it was afterwards varied; probably to meet the approbation of the gentleman from Pennsylvania,† and others who preferred to keep the court at its present number. But other gentlemen who are in opposition to this bill have still recommended a reduction of that number. Now, Sir, notwithstanding such reduction was one object, or was to be one effect, of the law of 1801, was contemplated, also, in the Senate's bill of 1819, and has been again recommended by the gentleman from Virginia, and other gentlemen, yet I cannot persuade myself that any ten members of the House, upon mature reflection, would now be in favor of such reduction. It could only be made to take place when vacancies should occur on the bench, by death or resignation. Of the seven judges of which the court consists, six are now assigned to circuits in the Atlantic States; one only is attached to the Western Districts. Now, Sir, if we were to provide for a reduction, it might happen that the first vacancy would be in the situation of the single Western judge. In that event, no appointment could be made until two other vacancies should occur, which might be several years. I suppose that no man would think it just, or wise, or prudent, to make a legal provision, in consequence of which it might happen that there should be no Western judge at all on the supreme bench for several years to come. This part of the plan, therefore, was wisely abandoned by the gentleman. The court cannot be reduced; and the question is only between

* Mr. Powell. † Mr. Buchanan.

seven justices of the Supreme Court, with ten circuit judges, and ten justices of the Supreme Court, with no circuit judges.

I will take notice here of another suggestion made by the gentleman from Pennsylvania, who is generally so sober-minded and considerate in his observations, that they deserve attention, from respect to the quarter whence they proceed. That gentleman recommends that the justices of the Supreme Court should be relieved from circuit duties, as individuals, but proposes, nevertheless, that the whole court should become migratory, or ambulatory, and that its sessions should be holden, now in New York or Boston, now in Washington or Richmond, and now in Kentucky or Ohio. And it is singular enough, that this arrangement is recommended in the same speech in which the authority of a late President is cited, to prove that considerations arising from the usually advanced age of some of the judges, and their reasonable desire for repose, ought to lead us to relieve them from all circuit duties whatever. Truly, Sir, this is a strange plan of relief. Instead of holding courts in his own State, and perhaps in his own town, and visiting a neighboring State, every judge on this plan is to join every other judge, and the whole bench to make, together, a sort of judicial progress. They are to visit the North, and the South, and to ascend and descend the Alleghanies. Sir, it is impossible to talk seriously against such a proposition. To state it, is to refute it. Let me merely ask, whether, in this peregrination of the court, it is proposed that they take all their records of pending suits, and the whole calendar of causes, with them. If so, then the Kentucky client, with his counsel, is to follow the court to Boston; and the Boston client to pursue it back to Kentucky. Or is it, on the contrary, proposed that there shall be grand judicial divisions in the country, and that while at the North, for example, none but Northern appeals shall be heard? If this be intended, then I ask, How often could the court sit in each one of these divisions? Certainly, not oftener than once in two years; probably, not oftener than once in three. An appeal, therefore, might be brought before the appellate court in two or three years from the time of rendering the first judgment; and supposing judgment to be pronounced in the appellate court at the second term, it would be decided in two or three years more. But it is not necessary to examine this suggestion further. Sir,

every thing conspires to prove, that, with respect to the great duties of the Supreme Court, they must be discharged at one annual session, and that session must be holden at the seat of government. If such provision be made as that the business of the year in that court may be despatched within the year, reasonable promptitude in the administration of justice will be attained; and such provision, I believe, is practicable.

Another objection advanced by the member from Pennsylvania applies as well to the system as it now exists, as to that which will be substituted if this bill shall pass. The honorable member thinks that the appellate court and the court from which the appeal comes should, in all cases, be kept entirely distinct and separate. True principle requires, in his judgment, that the circuit judge should be excluded from any participation in the revision of his own judgments. I believe, Sir, that, in the early history of the court, the practice was for the judge whose opinion was under revision not to partake in the deliberations of the court. This practice, however, was afterwards altered, and the court resolved that it could not discharge the judge from the duty of assisting in the decision of the appeal. Whether the two courts ought to be kept so absolutely distinct and separate as the member from Pennsylvania recommends, is not so clear a question that persons competent to form an opinion may not differ upon it. On the one hand, it may very well be said, that, if the judgment appealed from has been rendered by one of the judges of the appellate court, courtesy, kindness, or sympathy may inspire some disposition in the members of the same bench to affirm that judgment; and that the general habit of the court may thus become unfriendly to a free and unbiased revision. On the other hand, it may be contended, that, if there be no medium of communication between the court of the first instance, and the court of appellate jurisdiction, there may be danger that the reasons of the first may not be always well understood, and its judgments consequently liable, sometimes, to be erroneously reversed. It certainly is not true, that the chance of justice, in an appellate court, is always precisely equal to the chance of reversing the judgment below; although it is necessary for the peace of society and the termination of litigation to take it for granted, as a general rule, that what is decided by the ultimate tribunal is decided rightly.

To guard against too great a tendency to reversals in appel late courts, it has often been thought expedient to furnish a good opportunity at least of setting forth the grounds and reasons of the original judgment. Thus, in the British House of Lords a judgment of the King's Bench is not ordinarily reversed until the judges have been called in, and the reason of their several opinions stated by themselves. Thus, too, in the Court of Errors of New York, the Chancellor and the judges are members of the court; and, although they do not vote upon the revision of their own judgments or decrees, they are expected to assign and explain the reasons of the original judgment. In the modern practice of the courts of common law, causes are constantly and daily revised on motions for new trials founded on the supposed misdirection of the judge in matter of law. In these cases the judge himself is a component member of the court, and constantly takes part in its proceedings. It certainly may happen in such cases that some bias of preconceived opinion may influence the individual judge, or some undue portion of respect for the judgment already pronounced may unconsciously mingle itself with the judgments of others. But the universality of the practice sufficiently shows that no great practical evil is experienced from this cause.

It has been said in England, that the practice of revising the opinions of judges by motions for new trial, instead of filing bills of exception and suing out writs of error, has greatly diminished the practical extent of the appellate jurisdiction of the House of Lords. This shows that suitors are not advised that they have no hope to prevail against the first opinions of individual judges, or the sympathy of their brethren. Indeed, Sir, judges of the highest rank of intellect have always been distinguished for the candor with which they reconsider their own judgments. A man who should commend himself for never having altered his opinion might be praised for firmness of purpose; but men would think of him, either that he was a good deal above all other mortals, or somewhat below the most enlightened of them. He who is not wise enough to be always right, should be wise enough to change his opinion when he finds it wrong. The consistency of a truly great man is proved by his uniform attachment to truth and principle, and his devotion to the better reason; not by obstinate attachment to first-formed notions.

Whoever has not candor enough, for good cause, to change his own opinions, is not safe authority to change the opinions of other men. But at least, Sir, the member from Pennsylvania will admit, that, if an evil in this respect exist under the present law, this bill will afford some mitigation of that evil. By augmenting the number of the judges, it diminishes the influence of the individual whose judgment may be under revision; and so far, I hope, the honorable member may himself think the measure productive of good.

But, Sir, before we postpone to another year the consideration of this bill, I beg again to remind the House that the measure is not new. It is not new in its general character; it is not entirely new in its particular provisions. The necessity of some reform in the judicial establishment of the country has been presented to every Congress, and every session of Congress, since the peace of 1815. What has been recommended, at different times, has been already frequently stated. It is enough, now, to say, that the measure of extending the system by increasing the number of the judges of the Supreme Court was presented to the House, among other measures, in 1823, by the Judiciary Committee; and that so late as the last session it received a distinct expression of approbation in the other branch of the legislature. Gentlemen have referred to the bill introduced into this House two years ago. That bill had my approbation; I so declared at the commencement of this debate. It proposed to effect the object of retaining the judges upon their circuits without increasing their number. But it was complex. It was thought to be unequal, and it was unsatisfactory. There appeared no disposition in the House to adopt it; and when the same measure in substance was afterwards proposed in the other branch of the legislature, it received the approbation of no more than a half dozen voices. This led me to make a remark, at the opening of the debate, which I have already repeated, that, in my opinion, we are brought to the narrow ground of deciding between the system of Circuit Courts and the provisions of this bill. Shall we keep the judges upon the circuits and augment their member, or shall we relieve them from circuit duties and appoint special circuit judges in their places? This, as it seems to me, is the only practical question remaining for our decision.

I do not intend, Sir, to go again into the general question of continuing the justices of the Supreme Court in the discharge of circuit duties. My opinion has been already expressed, and I have heard nothing to alter it. The honorable gentleman from Virginia does me more than justice in explaining any expression of his own which might refer this opinion to a recent origin, or to any new circumstances. I confess, Sir, that four-and-twenty years ago, when this matter was discussed in Congress, my opinion, as far as I can be supposed to have had any opinion then on such subjects, inclined to the argument that recommended the separation of the judges from the circuits. But, if I may be pardoned for referring to any thing so little worthy the regard of the House as my own experience, I will say that that experience early led me to doubt the correctness of the first impression, and that I became satisfied that it was desirable in itself that the judges of the Supreme Court should remain in the active discharge of the duties of the circuits. I have acted in conformity to this sentiment so often as this subject has been before Congress in the short periods that I have been a member. I still feel the same conviction; and though I shall certainly yield the point, rather than that no provision for the existing exigency should be made, yet I should feel no inconsiderable pain in submitting to such necessity. I do not doubt, indeed, Sir, that, if the judges were separated from circuit duties, we should go on very well for some years to come. But looking to it as a permanent system, I view it with distrust and anxiety.

My reasons are already before the House. I am not about to repeat them. I beg to take this occasion, however, to correct one or two misapprehensions of my meaning into which gentlemen have fallen. I did not say, Sir, that I wished the judges of the Supreme Courts to go upon the circuits, to the end that they might see in the country the impression which their opinions made upon the public sentiment. Nothing like it. What I did say was, that it was useful that the judge of the Supreme Court should be able to perceive the application and bearing of the opinions of that court upon the variety of causes coming before him at the circuit. And is not this useful? Is it not probable that the judge will lay down a general rule with the greatest wisdom and precision, who comprehends in his view the greatest number of instances to which that rule is to be applied? As far

as I can now recall the train of my own ideas, the expression was suggested by a reflection upon the laws of the Western States, respecting title to land. We hear often in this House of "judicial legislation." If any such thing exist in this country, an instance of it doubtless is to be found in the land laws of some of the Western States. In Kentucky, for example, titles to the soil appear to depend, to a very great extent, upon a series of judicial decisions, growing out of an act of the Legislature of Virginia passed in 1779, for the sale and disposition of her public domain. The legislative provision was very short and general; and as rights were immediately acquired under it, the want of legislative detail could only be supplied by judicial construction and determination. Hence a system has grown up, which is complex, artificial, and argumentative. I do not impute blame to the courts; they had no option but to decide cases as they arose, upon the best reasons. And although I am a very incompetent judge in the case, yet as far as I am informed, it appears to me that the courts, both of the State and of the United States, have applied just principles to the state of things which they found existing. But, Sir, as a rule laid down at Washington in one of these cases may be expected to affect five hundred others, is it not obvious that a judge, bred to this peculiar system of law, and having also many of these cases in judgment before him in his own circuit, is better enabled to state, to limit, and to modify the general rule, than another judge, though of equal talents, who should be a stranger to the decisions of the State tribunals, a stranger to the opinions and practice of the profession, and a stranger to all cases except the single one before him for judgment?

The honorable member from Pennsylvania asks, Sir, whether a statute of Vermont cannot be as well understood at Washington, as at Windsor or Rutland. Why, Sir, put in that shape, the question has very little meaning. But if the gentleman intends to ask, whether a judge who has been for years in the constant discharge of the duties incumbent upon him as the head of the Circuit Court in Vermont, and who, therefore, has had the statutes of that State frequently before him, has learned their interpretation by the State judicatures, and their connection with other laws, local or general,—if the question be, whether such a judge is not probably more competent to understand

that statute than another, who, with no knowledge of its local interpretation or local application, shall look at its letter for the first time in the hall of the Supreme Court, — if this be the question, Sir, which the honorable gentleman means to propound, I cheerfully refer him to the judgment of this House, and to his own good understanding, for an answer. Sir, we have heard a tone of observation upon this subject which quite surprises me. It seems to imply that one intelligent man is as fit to be a judge of the Supreme Court as another. The perception of the true rule, and its rightful application, whether of local or general law, are supposed to be entirely easy, because there are many volumes of statutes and of decisions. There can be no doubt, it seems, that a Supreme Court, however constituted, would readily understand, in the instance mentioned, the law of Vermont, because the statutes of Vermont are accessible. Nor need Louisiana fear that her peculiar code will not be thoroughly and practically known, inasmuch as a printed copy will be found in the public libraries.

Sir, I allude to such arguments, certainly not for the purpose of undertaking a refutation of them, but only to express my regret that they should have found place in this discussion. I have not contended, Sir, for any thing like judicial representation. I care not in what terms of reproach such an idea be spoken of. It is none of mine. What I said was, and I still say it, that, with so many States, having various and different systems, with such a variety of local laws and usages and practices, it is highly important that the Supreme Court should be so constituted as to allow a fair prospect, in every case, that these laws and usages should be known; and that I know nothing so naturally conducive to this end, as the knowledge and experience obtained by the judges on the circuits. Let me ask, Sir, the members from New England, if they have ever found any man this side of the North River who thoroughly understood our practice of special attachment, our process of garnishment, or trustee process, or our mode of extending execution upon land? And let me ask, at the same time, whether there be an individual of the profession, between this place and Maine who is, at this moment, competent to the decision of questions arising under the peculiar system of land titles of Kentucky or Tennessee? If there be such a gentleman, I confess I have not the honor of his acquaintance.

On the general question of the utility of constant occupation in perfecting the character of a judge, I do not mean now to enlarge. I am aware that men will differ on that subject, according to their different means or different habits of observation. To me it seems as clear as any moral proposition whatever. And I would ask the honorable member from Rhode Island, since he has referred to the judge of the first circuit, and has spoken of him in terms of respect not undeserved, whether he supposes that that member of the court, if, fifteen years ago, on receiving his commission, he had removed to this city, and had remained here ever since, with no other connection with his profession than an annual session of six weeks in the Supreme Court, would have been the judge he now is? Sir, if this question were proposed to that distinguished person himself, and if he could overcome the reluctance which he would naturally feel to speak at all of his own judicial qualities, I am extremely mistaken if he would not refer to his connection with the Circuit Court, and the frequency and variety of his labors there, as efficient causes in the production of that eminent degree of ability with which he now discharges the duties of his station.

There is not, Sir, an entire revolution wrought in the mind of a professional man, by appointing him a judge. He is still a lawyer; and if he have but little to do as a judge, he is, in effect, a lawyer out of practice. And how is it, Sir, with lawyers who are not judges, and are yet out of practice? Let the opinion and the common practice of mankind decide this. If you require professional assistance in whatever relates to your reputation, your property, or your family, do you go to him who is retired from the bar, and who has uninterrupted leisure to pursue his readings and reflections; or do you address yourself to him, on the contrary, who is in the midst of affairs, busy every day, and every hour in the day, with professional pursuits? But I will not follow this topic farther, nor dwell on this part of the case.

I have already said, that, in my opinion, the present number of the court is more convenient than a larger number, for the hearing of a certain class of causes. This opinion I do not retract; for I believe it to be correct. But the question is, whether this inconvenience be not more than balanced by other advantages. I think it is.

It has been again and again urged, that this bill makes no provision for clearing off the term business of the Supreme Court; and strange mistakes, as it appears to me, are committed, as to the amount of arrears in that court. I believe that the bill intended to remedy that evil will remedy it. I believe there is time enough for the court to go through its lists of causes here, without interfering with the sessions of the Circuit Courts; and, notwithstanding the mathematical calculations by which it has been proved that the proposed addition to the length of the term would enable the court to decide precisely nine additional causes, and no more, yet I have authority to say, that those who have the best means of knowing were of opinion, two years ago, that the proposed alteration of the term would enable the court, in two years, to go through all the causes before it ready for hearing.

It has been said, Sir, that this measure will injure the character of the Supreme Court; because, as we increase numbers, we lessen responsibility in the same proportion. Doubtless, as a general proposition, there is great truth in this remark. A court so numerous as to become a popular body would be unfit for the exercise of judicial functions. This is certain. But then this general truth, although admitted, does not enable us to fix with precision the point at which this evil either begins to be felt at all, or to become considerable; still less, where it is serious or intolerable. If seven be quite few enough, it may not be easy to show that ten must necessarily be a great deal too many. But there is another view of the case, connected with what I have said heretofore in this discussion, and which furnishes, in my mind, a complete answer to this part of the argument; and that is, that a judge who has various important individual duties to perform in the Circuit Court, and who sits in the appellate court with nine others, acts, on the whole, in a more conspicuous character, and under the pressure of more immediate and weighty responsibility, than if he performed no individual circuit duty, and sat on the appellate bench with six others only.

But again, it has been argued, that to increase the number of the Supreme Court is dangerous; because, with such a precedent, Congress may hereafter effect any purpose of its own, in regard to judicial decisions, by changing essentially the whole

constitution of the court, and overthrowing its settled decisions, by augmenting the number of judges. Whenever Congress, it is said, may dislike the constitutional opinions and decisions of the court, it may mould it to its own views, upon the authority of the present example. But these abuses of power are not to be anticipated or supposed; and therefore no argument results from them.

If we were to be allowed to imagine that the legislature would act in entire disregard of its duty, there are ways enough, certainly, beside that supposed, in which it might destroy the judiciary, as well as any other branch of the government. The judiciary power is conferred, and the Supreme Court established, by the Constitution; but then legislative acts are necessary to confer jurisdiction on inferior courts, and to regulate proceedings in all courts. If Congress should neglect the duty of passing such laws, the judicial power could not be efficiently exercised. If, for example, Congress were to repeal the twenty-fifth section of the judicial act of 1789, and make no substitute, there would be no mode by which the decisions of State tribunals, on questions arising under the Constitution and laws of the United States, could be revised in the Supreme Court. Or if they were to repeal the eleventh section of that act, the power of trying causes between citizens of different States, in the tribunals of this government, could not be exercised. All other branches of the government depend, in like manner, for their continuance in life and being, and for the proper exercise of their powers, on the presumption that the legislature will discharge its constitutional duties. If it were possible to adopt the opposite supposition, doubtless there are modes enough to which we may look to see the subversion both of the courts and the whole Constitution.

Mr. Speaker, I will not detain you by further reply to the various objections which have been made to this bill. What has occurred to me as most important, I have noticed either now or heretofore; and I refer the whole to the dispassionate judgment of the House. Allow me, however, Sir, before I sit down, to disavow, on my own behalf and on behalf of the committee, all connection between this measure and any opinions or decisions, given or expected, in any causes, or classes of causes, by the Supreme Court. Of the merits of the case of which early

mention was made in the debate, I know nothing. I presume it was rightly decided, because it was decided by sworn judges, composing a tribunal in which the Constitution and the laws have lodged the power of ultimate judgment. It would be unworthy, indeed, of the magnitude of this occasion, to bend our course a hair's breadth on the one side or the other, either to favor or to oppose what we might like, or dislike, in regard to particular questions. Surely we are not fit for this great work, if motives of that sort can possibly come near us. I have forborne, throughout this discussion, all expression of opinion on the manner in which the members of the Supreme Court have heretofore discharged, and still discharge, the responsible duties of their station. I should feel restraint and embarrassment, were I to make the attempt to express my sentiments on that point. Professional habits and pursuits connect me with the court, and I feel that it is not proper that I should speak here of the personal qualities of its members, either generally or individually. They shall not suffer, at least, from any ill-timed or clumsy eulogy of mine. I could not, if I would, make them better known than they are to their country; nor could I either strengthen or shake the foundation of character and talent upon which they stand.

But of the judicial branch of the government, and of the institution of the Supreme Court, as the head of that branch, I beg to say that no man can regard it with more respect and attachment than myself. It may have friends more able, it has none more sincere. No conviction is deeper in my mind, than that the maintenance of the judicial power is essential and indispensable to the very being of this government. The Constitution without it would be no constitution; the government, no government. I am deeply sensible, too, and, as I think, every man must be whose eyes have been open to what has passed around him for the last twenty years, that the judicial power is the protecting power of the whole government. Its position is upon the outer wall. From the very nature of things and the frame of the Constitution, it forms the point at which our different systems of government meet in collision, when collision unhappily exists. By the absolute necessity of the case, the members of the Supreme Court become judges of the extent of constitutional powers. They are if I may so call them, the

great arbitrators between contending sovereignties. Every man is able to see how delicate and how critical must be the exercise of such powers in free and popular governments. Suspicion and jealousy are easily excited, under such circumstances, against a body, necessarily few in number, and possessing by the Constitution a permanent tenure of office. While public men in more popular parts of the government may escape without rebuke, notwithstanding they may sometimes act upon opinions which are not acceptable, that impunity is not to be expected in behalf of judicial tribunals. It cannot but have attracted observation, that, in the history of our government, the courts have not been able to avoid severe, and sometimes angry complaint, for giving their sanction to those public measures which the representatives of the people had adopted without exciting particular disquietude. Members of this and the other house of Congress, acting voluntarily, and in the exercise of their general discretion, have enacted laws without incurring an uncommon degree of dislike or resentment; and yet, when those very laws have been brought before the court, and the question of their validity has been distinctly raised, and is necessarily to be determined, the judges affirming the constitutional validity of such acts, although the occasion was forced upon them, and they were absolutely bound to express the one opinion or the other, have, nevertheless, not escaped a severity of reproach bordering upon the very verge of denunciation. This experience, while it teaches us the dangers which environ this department, instructs us most persuasively in its importance. For its own security, and the security of the other branches of the government, it requires such an extraordinary union of discretion and firmness, of ability and moderation, that nothing in the country is too distinguished for sober sense or too gifted with powerful talent, to fill the situations belonging to it.

THE PANAMA MISSION.*

THE following resolution being under consideration, in committee of the whole House upon the state of the Union, viz.: —

"*Resolved*, That in the opinion of the House it is expedient to appropriate the funds necessary to enable the President of the United States to send ministers to the Congress of Panama"; —

Mr. McLane of Delaware submitted the following amendment thereto, viz.: —

"It being understood as the opinion of this House, that, as it has always been the settled policy of this government, in extending our commercial relations with foreign nations, to have with them as little political connection as possible, to preserve peace, commerce, and friendship with all nations, and to form entangling alliances with none; the ministers who may be sent shall attend at the said Congress in a diplomatic character merely, and ought not to be authorized to discuss, consider, or consult, upon any proposition of alliance, offensive or defensive, between this country and any of the Spanish American governments, or any stipulation, compact, or declaration, binding the United States in any way, or to any extent, to resist interference from abroad with the domestic concerns of the aforesaid governments; or any measure which shall commit the present or future neutral rights or duties of these United States, either as may regard European nations, or between the several states of Mexico and South America; leaving the United States free to adopt, in any event which may happen, affecting the relations of the South American governments with each other, or with foreign nations, such measures as the friendly disposition cherished by the American people towards the people of those states, and the honor and interest of this nation, may require"; —

To which Mr. Rives of Virginia proposed to add, after the words "aforesaid governments," the following: —

* A Speech delivered in the House of Representatives of the United States, on the 14th of April, 1826.

"Or any compact or engagement by which the United States shall be pledged to the Spanish American states, to maintain, by force, the principle that no part of the American continent is henceforward subject to colonization by any European power."

The preceding motions to amend being under consideration, Mr. Webster addressed the committee as follows.

Mr. Chairman, — I am not ambitious of amplifying this discussion. On the contrary, it is my anxious wish to confine the debate, so far as I partake in it, to the real and material questions before us.

Our judgment of things is liable, doubtless, to be influenced by our opinions of men. It would be affectation in me, or in any one, to claim an exemption from this possibility of bias. I can say, however, that it has been my sincere purpose to consider and discuss the present subject with the single view of finding out what duty it devolves upon me, as a member of the House of Representatives. If any thing has diverted me from that sole aim, it has been against my intention.

I think, Sir, that there are two questions, and two only, for our decision. The first is, whether the House of Representatives will assume the responsibility of withholding the ordinary appropriation for carrying into effect an executive measure, which the executive department has constitutionally instituted. The second, whether, if it will not withhold the appropriation, it will yet take the responsibility of interposing, with its own opinions, directions, or instructions, as to the manner in which this particular executive measure shall be conducted.

I am, certainly, in the negative, on both these questions. I am neither willing to refuse the appropriation, nor am I willing to limit or restrain the discretion of the executive, beforehand, as to the manner in which it shall perform its own appropriate constitutional duties. And, Sir, those of us who hold these opinions have the advantage of being on the common highway of our national politics. We propose nothing new; we suggest no change; we adhere to the uniform practice of the government, as I understand it, from its origin. It is for those, on the other hand, who are in favor of either, or both, of the propositions, to show us the cogent reasons which recommend their adoption. It is their duty to satisfy the House and

the country that there is something in the present occasion which calls for such an extraordinary and unprecedented interference.

The President and Senate have instituted a public mission, for the purpose of treating with foreign states. The Constitution gives to the President the power of appointing, with the consent of the Senate, ambassadors and other public ministers. Such appointment is, therefore, a clear and unquestionable exercise of executive power. It is, indeed, less connected with the appropriate duties of this House, than almost any other executive act; because the office of a public minister is not created by any statute or law of our own government. It exists under the law of nations, and is recognized as existing by our Constitution. The acts of Congress, indeed, limit the salaries of public ministers; but they do no more. Every thing else in regard to the appointment of public ministers, — their numbers, the time of their appointment, and the negotiations contemplated in such appointments, — is matter for executive discretion. Every new appointment to supply vacancies in existing missions is under the same authority. There are, indeed, what we commonly term standing missions, so known in the practice of the government, but they are not made permanent by any law. All missions rest on the same ground. Now the question is, whether, the President and Senate having created this mission, or, in other words, having appointed the ministers, in the exercise of their undoubted constitutional power, this House will take upon itself the responsibility of defeating its objects, and rendering this exercise of executive power void?

By voting the salaries in the ordinary way, we assume, as it seems to me, no responsibility whatever. We merely empower another branch of the government to discharge its own appropriate duties, in that mode which seems to itself most conducive to the public interests. We are, by so voting, no more responsible for the manner in which the negotiation shall be conducted, than we are for the manner in which one of the heads of department may discharge the duties of his office.

On the other hand, if we withhold the ordinary means, we do incur a heavy responsibility. We interfere, as it seems to me, to prevent the action of the government, according to constitutional forms and provisions. It ought constantly to be remembered, that our whole power in the case is merely incidental. It

is only because public ministers must have salaries, like other officers, and because no salaries can be paid but by our vote, that the subject is referred to us at all. The Constitution vests the power of appointment in the President and Senate; the law gives to the President even the power of fixing the amount of salary, within certain limits; and the only question here is upon the appropriation. There is no doubt that we have the power, if we see fit to exercise it, to break up the mission, by withholding the salaries. We have power also to break up the court, by withholding the salaries of the judges, or to break up the office of President, by withholding the salary provided for it by law. All these things, it is true, we have the power to do, since we hold the keys of the treasury. But, then, can we rightfully exercise this power? The gentleman from Pennsylvania,* with whom I have great pleasure in concurring on this part of the case, while I regret that I differ with him on others, has placed this question in a point of view which cannot be improved. These officers do, indeed, already exist. They are public ministers. If they were to negotiate a treaty, and the Senate should ratify it, it would become a law of the land, whether we voted their salaries or not. This shows that the Constitution never contemplated that the House of Representatives should act a part in originating negotiations or concluding treaties.

I know, Sir, it is a useless labor to discuss the kind of power which this House incidentally holds in these cases. Men will differ in that particular; and as the forms of public business and of the Constitution are such that the power may be exercised by this House, there will always be some, or always may be some, who feel inclined to exercise it. For myself, I feel bound not to step out of my own sphere, and neither to exercise or control any authority, of which the Constitution has intended to lodge the free and unrestrained exercise in other hands. Cases of extreme necessity, in which a regard to public safety is to be the supreme law, or rather to take place of all law, must be allowed to provide for themselves when they arise. Arguments drawn from such possible cases will shed no light on the general path of our constitutional duty.

Mr. Chairman, I have an habitual and very sincere respect for

* Mr. Buchanan.

the opinions of the gentleman from Delaware. And I can say with truth, that he is the last man in the House from whom I should have looked for this proposition of amendment, or from whom I should have expected to hear some of the reasons which he has given in its support. He says, that, in this matter, the source from which the measure springs should have no influence with us whatever. I do not comprehend this; and I cannot but think the honorable gentleman has been surprised into an expression which does not convey his meaning. This measure comes from the executive, and it is an appropriate exercise of executive power. How is it, then, that we are to consider it as entirely an open question for us, — as if it were a legislative measure originating with ourselves? In deciding whether we will enable the executive to exercise his own duties, are we to consider whether we should have exercised them in the same way ourselves? And if we differ in opinion with the President and Senate, are we on that account to refuse the ordinary means? I think not; unless we mean to say that we will ourselves exercise all the powers of the government.

But the gentleman argues, that, although generally such a course would not be proper, yet in the present case the President has especially referred the matter to our opinion; that he has thrown off, or attempted to throw off, his own constitutional responsibility; or at least, that he proposes to divide it with us; that he requests our advice, and that we, having referred that request to the Committee on Foreign Affairs, have now received from that committee their report thereon.

Sir, this appears to me a very mistaken view of the subject; but if it were all so, if our advice and opinion had thus been asked, it would not alter the line of our duty. We cannot take, though it were offered, any share in executive duty. We cannot divide their own proper responsibility with other branches of the government. The President cannot properly ask, and we cannot properly give, our advice, as to the manner in which he shall discharge his duties. He cannot shift the responsibility from himself; and we cannot assume it. Such a course, Sir, would confound all that is distinct in our respective constitutional functions. It would break down all known divisions of power, and put an end to all just responsibility. If the President were to receive directions or advice from us, in things per-

taining to the duties of his own office, what would become of his responsibility to us and to the Senate? We hold the impeaching power. We are to bring him to trial in any case of maladministration. The Senate are to judge him by the Constitution and laws; and it would be singular indeed, if, when such occasion should arise, the party accused should have the means of sheltering himself under the advice or opinions of his accusers. Nothing can be more incorrect or more dangerous than this pledging the House beforehand to any opinion as to the manner of discharging executive duties.

But, Sir, I see no evidence whatever that the President has asked us to take this measure upon ourselves, or to divide the responsibility of it with him. I see no such invitation or request. The Senate having concurred in the mission, the President has sent a message requesting the appropriation, in the usual and common form. In answer to a call of the House, another message is sent, communicating the correspondence, and setting forth the objects of the mission. It is contended, that by this message he asks our advice, or refers the subject to our opinion. I do not so understand it. Our concurrence, he says, by making the appropriation, is subject to our free determination. Doubtless it is so. If we determine at all, we shall determine freely; and the message does no more than leave to ourselves to decide how far we feel ourselves bound, either to support or to thwart the executive department, in the exercise of its duties. There is no message, no document, no communication to us, which asks for our concurrence, otherwise than as we shall manifest it by making the appropriation.

Undoubtedly, Sir, the President would be glad to know that the measure met the approbation of the House. He must be aware, unquestionably, that all leading measures mainly depend for success on the support of Congress. Still, there is no evidence that on this occasion he has sought to throw off responsibility from himself, or that he desires us to be answerable for any thing beyond the discharge of our own constitutional duties I have already said, Sir, that I know of no precedent for such a proceeding as the amendment proposed by the gentleman from Delaware. None which I think analogous has been cited. The resolution of the House, some years ago, on the subject of the slave-trade, is a precedent the other way. A committee had re-

ported that, in order to put an end to the slave-trade, a mutua right of search might be admitted and arranged by negotiation. But this opinion was not incorporated, as the gentleman now proposes to incorporate his amendment, into the resolution of the House. The resolution only declared, in general terms, that the President be requested to enter upon such negotiations with other powers as he might deem expedient, for the effectual abolition of the African slave-trade. It is singular enough, and may serve as an admonition on the present occasion, that, a negotiation having been concluded, in conformity to the opinions expressed, not, indeed, by the House, but by the committee, the treaty, when laid before the Senate, was rejected by that body.

The gentleman from Delaware himself says, that the Constitutional responsibility pertains alone to the executive department, and that none other has to do with it, as a public measure. These admissions seem to me to conclude the question; because, in the first place, if the constitutional responsibility appertains alone to the President, he cannot devolve it on us if he would; and because, in the second place, I see no proof of any intention on his part so to devolve it on us, even if he had the power.

Mr. Chairman, I will here take occasion, in order to prevent misapprehension, to observe, that no one is more convinced than I am, that it is the right of this House, and often its duty, to express its general opinion in regard to questions of foreign policy. Nothing, certainly, is more proper. I have concurred in such proceedings, and am ready to do so again. On those great subjects, for instance, which form the leading topics in this discussion, it is not only the right of the House to express its opinions, but I think it its duty to do so, if it should suppose the executive to be pursuing a general course of policy which the House itself will not ultimately approve. But that is something entirely different from the present suggestion. Here it is proposed to decide, by our vote, what shall be discussed by particular ministers, already appointed, when they shall meet the ministers of the other powers. This is not a general expression of opinion. It is a particular direction, or a special instruction. Its operation is limited to the conduct of particular men, on a particular occasion. Such a thing, Sir, is wholly unprecedented in our history. When the House proceeds in the accustomed way, by general resolution, its sentiments apply as far as ex-

pressed, to all public agents, and on all occasions. They apply to the whole course of policy, and must necessarily be felt everywhere. But if we proceed by way of direction to particular ministers, we must direct them all. In short, we must take upon ourselves to furnish diplomatic instructions in all cases.

We now propose to prescribe what our ministers shall discuss, and what they shall not discuss, at Panama. But there is no subject coming up for discussion at Panama, which might not also be proposed for discussion either here, or at Mexico, or in the capital of Colombia. If we direct what our ministers at Panama shall or shall not say on the subject of Mr. Monroe's declaration, for example, why should we not proceed to say also what our other ministers abroad, or our Secretary at home, shall say on the same subject? There is precisely the same reason for the one as for the other. The course of the House hitherto, Sir, has not been such. It has expressed its opinions, when it deemed proper to express them at all, on great leading questions, by resolution, and in a general form. These general opinions, being thus made known, have doubtless always had, and such expressions of opinion doubtless always will have, their effect. This is the practice of the government. It is a salutary practice; but if we carry it further, or rather if we adopt a very different practice, and undertake to prescribe to our public ministers what they shall discuss, and what they shall not discuss, we take upon ourselves that which, in my judgment, does not at all belong to us. I see no more propriety in our deciding now in what manner these ministers shall discharge their duty, than there would have been in our prescribing to the President and Senate what persons ought to be appointed ministers.

An honorable member from Virginia,* who spoke some days ago, seems to go still further than the member from Delaware. He maintains, that we may distinguish between the various objects contemplated by the executive in the proposed negotiation, and adopt some and reject others. And this high, delicate, and important trust, the gentleman deduces simply from our power to withhold the ministers' salaries. The process of the gentleman's argument appears to me as singular as its conclusion. He founds himself on the legal maxim, that he who has the

* Mr. Rives.

power to give may annex to the gift whatever condition or qualification he chooses. This maxim, Sir, would be applicable to the present case, if we were the sovereigns of the country; if all power were in our hands; if the public money were entirely our own; if our appropriation of it were mere grace and favor; and if there were no restraints upon us but our own sovereign will and pleasure. But the argument totally forgets that we are ourselves but public agents; that our power over the treasury is but that of stewards over a trust fund; that we have nothing to give, and therefore no gifts to limit or qualify; that it is as much our duty to appropriate to proper objects, as to withhold appropriations from such as are improper; and that it is as much, and as clearly, our duty to appropriate in a proper and constitutional manner, as to appropriate at all.

The same honorable member advanced another idea, in which I cannot concur. He does not admit that confidence is to be reposed in the executive, on the present occasion, because confidence, he argues, implies only that, not knowing ourselves what will be done in a given case by others, we trust those who are to act in it, that they will act right; and as we know the course likely to be pursued in regard to this subject by the executive, confidence can have no place. This seems a singular notion of confidence, and certainly is not my notion of that confidence which the Constitution requires one branch of the government to repose in another. The President is not our agent, but, like ourselves, the agent of the people. They have trusted to his hands the proper duties of his office; and we are not to take those duties out of his hands, from any opinion of our own that we should execute them better ourselves. The confidence which is due from us to the executive, and from the executive to us, is not personal, but official and constitutional. It has nothing to do with individual likings or dislikings; but results from that division of power among departments, and those limitations on the authority of each, which belong to the nature and frame of our government. It would be unfortunate indeed, if our line of constitutional action were to vibrate backward and forward, according to our opinions of persons, swerving this way to-day, from undue attachment, and the other way to-morrow, from distrust or dislike. This may sometimes happen from the weakness of our virtues, or the excitement of

our passions; but I trust it will not be coolly recommended to us, as the rightful course of public conduct.

It is obvious to remark, Mr. Chairman, that the Senate have not undertaken to give directions or instructions in this case. That body is closely connected with the President in executive measures. Its consent to these very appointments is made absolutely necessary by the Constitution; yet it has not seen fit, in this or any other case, to take upon itself the responsibility of directing the mode in which the negotiations should be conducted.

For these reasons, Mr. Chairman, I am for giving no instructions, advice, or directions in the case. I prefer leaving it where, in my judgment, the Constitution has left it; to executive discretion and executive responsibility.

But, Sir, I think there are other objections to the amendment. There are parts of it which I could not agree to, if it were proper to attach any such condition to our vote. As to all that part of the amendment, indeed, which asserts the neutral policy of the United States, and the inexpediency of forming alliances, no man assents to those sentiments more readily, or more entirely, than myself. On these points we are all agreed. Such is our opinion; such, the President assures us, in terms, is his opinion; such we know to be the opinion of the country. If it be thought necessary to affirm opinions which no one either denies or doubts, by a resolution of the House, I shall cheerfully concur in it. But there is one part of the proposed amendment to which I could not agree in any form. I wish to ask the gentleman from Delaware himself to reconsider it. I pray him to look at it again, and to see whether he means what it expresses or implies; for, on this occasion, I should be more gratified by seeing that the honorable gentleman himself had become sensible that he had fallen into some error in this respect, than by seeing the vote of the House against him by any majority whatever.

That part of the amendment to which I now object is that which requires, as a condition of the resolution before us, that the ministers shall not "be authorized to discuss, consider, or consult upon any measure which shall commit the present or future neutral rights or duties of these United States, either as may regard European nations, or between the several states of Mexico and South America."

I need hardly repeat, that this amounts to a precise instruction. It being understood that the ministers shall not be authorized to discuss particular subjects, is a mode of speech precisely equivalent to saying, "provided the ministers be instructed," or "the ministers being instructed, not to discuss those subjects." Notwithstanding all that has been said, or can be said, about this amendment being no more than a general expression of opinion, or an abstract proposition, this part of it is an exact and definite instruction. It prescribes to public ministers the precise manner in which they are to conduct a public negotiation; a duty manifestly and exclusively belonging, in my judgment, to the executive, and not to us.

But if we possessed the power to give instructions, this instruction would not be a proper one to give. Let us examine it. The ministers shall not "discuss, consider, or consult upon any measure which shall commit the present or future neutral rights or duties of these United States, either as may regard European nations, or between the several states of Mexico and South America."

Now, Sir, in the first place, it is to be observed that they are not only not to agree to any such measure, but they are not to discuss it. If proposed to them, they are not to give reasons for declining it. Indeed, they cannot reject it; they can only say they are not authorized to consider it. Would it not be better, Sir, to leave these agents at liberty to explain the policy of our government, fully and clearly, and to show the reasons which induce us to abstain, as far as possible, from foreign connections, and to act in all things with a scrupulous regard to the duties of neutrality?

But again; they are to discuss no measure which may commit our neutral rights or duties. To commit is somewhat indefinite. May they not modify or in any degree alter our neutral rights and duties? If not, I hardly know whether a common treaty of commerce could be negotiated; because all such treaties affect or modify, more or less, the neutral rights or duties of the parties; especially all such treaties as our habitual policy leads us to form. But I suppose the author of the amendment uses the word in a larger and higher sense. He means that the ministers shall not discuss or consider any measure which may have a tendency, in any degree, to place us in a

hostile attitude towards any foreign state. And here, again, one cannot help repeating, that the prohibition is, not against proposing or assenting to any such measure, but against considering it, against answering it if proposed, against resisting it with reasons.

But if this objection were removed, still the instruction could not properly be given. What important or leading measure is there, connected with our foreign relations, which can be adopted without the possibility of committing us to the necessity of a hostile attitude? Any assertion of our plainest rights may, by possibility, have that effect. The author of the amendment seems to suppose that our pacific relations can never be changed but by our own option. He seems not to be aware that other states may compel us, in defence of our own rights, to measures which, in their ultimate tendency, may commit our neutrality. Let me ask, if the ministers of other powers, at Panama, should signify to our agents that it was in contemplation immediately to take some measure which these agents knew to be hostile to our policy, adverse to our rights, and such as we could not submit to; should they be left free to speak the sentiments of their government, to protest against the measure, and to declare that the United States would not see it carried into effect? Or should they, as this amendment proposes, be enjoined to silence, to let the measure proceed, in order that afterwards, when perhaps we have gone to war to redress the evil, we may learn that, if our objections had been fairly and frankly stated, the step would not have been taken? Look, Sir, to the very case of Cuba, the most delicate and vastly the most important point in all our foreign relations. Do gentlemen think they exhibit skill or statesmanship in laying such restraints as they propose on our ministers, in regard to this among other subjects? It has been made matter of complaint, that the executive has not used, already, a more decisive tone towards Mexico and Colombia, in regard to their designs on this island. Pray, Sir, what tone could be taken under these instructions? Not one word, not one single word, could be said on the subject. If asked whether the United States would consent to the occupation of that island by those republics, or to its transfer by Spain to a European power, or whether we should resist such occupation or such transfer, what could they say? "That is a matter we cannot discuss, and cannot consider; it would commit

our neutral relations; we are not at liberty to express the sentiments of our government on the subject; we have nothing at all to say." Is this, Sir, what the gentlemen wish, or what they would recommend?

If, Sir, we give these instructions, and they should be obeyed, and inconvenience or evil result, who is answerable? And I suppose it is expected they will be obeyed. Certainly it cannot be intended to give them, and not take the responsibility of the consequences, if they are followed. It cannot be intended to hold the President answerable both ways; first, to compel him to obey our instructions, and, secondly, to make him responsible if evil comes from obeying them.

Sir, events may change. If we had the power to give instructions, and if these proposed instructions were proper to be given, before we arrive at our own homes affairs may take a new direction, and the public interest require new and corresponding orders to our agents abroad.

This is said to be an extraordinary case, and, on that account, to justify our interference. If the fact were true, the consequence would not follow. If it be the exercise of a power assigned by the Constitution to the executive, it can make no difference whether the occasion be common or uncommon. But, in truth, there have been much stronger cases for the interference of the House, where, nevertheless, the House has not interfered. For example, in the negotiations for peace carried on at Ghent. In that case, Congress, by both houses, had declared war for certain alleged causes. After the war had lasted some years, the President, with the advice of the Senate, appointed ministers to treat of peace; and he gave them such instructions as he saw fit. Now, as the war was declared by Congress, and was waged to obtain certain ends, it would have been plausible to say that Congress ought to know the instructions under which peace was to be negotiated, that they might see whether the objects for which the war was declared had been abandoned. Yet no such claim was set up. The President gave instructions such as his judgment dictated, and neither house asserted any right of interference.

Sir, there are gentlemen in this House, opposed to this mission, who, I hope, will nevertheless consider this question of amendment on general constitutional grounds. They are gen

tlemen of much estimation in the community, likely, I hope, long to continue in the public service; and I trust they will well reflect on the effect of this amendment on the separate powers and duties of the several departments of the government.

An honorable member from Pennsylvania* has alluded to a resolution introduced by me the session before the last. I should not have referred to it myself, had he not invited the reference; but I am happy in the opportunity of showing how that resolution coincides with every thing which I say today. What was that resolution? When an interesting people were struggling for national existence against a barbarous despotism, when there were good hopes (hopes yet, I trust, to be fully realized) of their success, and when the Holy Alliance had pronounced against them certain false and abominable doctrines, I moved the House to resolve — what? Simply that provision ought to be made by law to defray the expense of an agent or commissioner to that country, whenever the President should deem it expedient to make such appointment. Did I propose any instruction to the President, or any limit on his discretion? None at all, Sir; none at all. What resemblance, then, can be found between that resolution and this amendment? Let those who think any such resemblance exists adopt, if they will, the words of the resolution as a substitute for this amendment. We shall gladly take them.

I am therefore, Mr. Chairman, against the amendment, not only as not being a proper manner of exercising any power belonging to this House, but also as not containing instructions fit to be given if we possessed the power of giving them. And as my vote will rest on these grounds, I might terminate my remarks here; but the discussion has extended over a broader surface, and, following where others have led, I will ask your indulgence to a few observations on the more general topics of the debate.

Mr. Chairman, it is our fortune to be called upon to act our part as public men at a most interesting era in human affairs. The short period of your life and of mine has been thick and crowded with the most important events. Not only new interests and new relations have sprung up among states, but new

* Mr. Hemphill.

societies, new nations, and families of nations, have risen to take their places and perform their parts in the order and the intercourse of the world. Every man aspiring to the character of a statesman must endeavor to enlarge his views to meet this new state of things. He must aim at an adequate comprehension of it, and instead of being satisfied with that narrow political sagacity, which, like the power of minute vision, sees small things accurately, but can see nothing else, he must look to the far horizon, and embrace in his broad survey whatever the series of recent events has brought into connection, near or remote, with the country whose interests he studies to serve.

We have seen eight states, formed out of colonies on our own continent, assume the rank of nations. This is a mighty revolution, and when we consider what an extent of the surface of the globe they cover, through what climates they extend, what population they contain, and what new impulses they must derive from this change of government, we cannot but perceive that great effects are likely to be produced on the intercourse and the interests of the civilized world. Indeed, it has been forcibly said, by the intelligent and distinguished statesman who conducts the foreign relations of England,* that when we now speak of Europe and the world, we mean Europe and America; and that the different systems of these two portions of the globe, and their several and various interests, must be thoroughly studied and nicely balanced by the statesmen of the times.

In many respects, Sir, the European and the American nations are alike. They are alike Christian states, civilized states, and commercial states. They have access to the same common fountains of intelligence; they all draw from those sources which belong to the whole civilized world. In knowledge and letters, in the arts of peace and war, they differ in degrees; but they bear, nevertheless, a general resemblance. On the other hand, in matters of government and social institution, the nations on this continent are founded upon principles which never did prevail, to considerable extent, either at any other time or in any other place. There has never been presented to the mind of man a more interesting subject of contemplation than the establishment of so many nations in America, partaking in the civilization and in the arts of the Old World, but having left be-

* Mr. Canning.

hind them those cumbrous institutions which had their origin in a dark and military age. Whatsoever European experience has developed favorable to the freedom and the happiness of man, whatever European genius has invented for his improvement or gratification, whatsoever of refinement or polish the culture of European society presents for his adoption and enjoyment, — all this is offered to man in America, with the additional advantage of the full power of erecting forms of government on free and simple principles, without overturning institutions suited to times long passed, but too strongly supported, either by interests or prejudices, to be shaken without convulsions. This unprecedented state of things presents the happiest of all occasions for an attempt to establish national intercourse upon improved principles, upon principles tending to peace and the mutual prosperity of nations. In this respect America, the whole of America, has a new career before her. If we look back on the history of Europe, we see for how great a portion of the last two centuries her states have been at war for interests connected mainly with her feudal monarchies. Wars for particular dynasties, wars to support or prevent particular successions, wars to enlarge or curtail the dominions of particular crowns, wars to support or to dissolve family alliances, wars to enforce or to resist religious intolerance, — what long and bloody chapters do not these fill in the history of European politics! Who does not see, and who does not rejoice to see, that America has a glorious chance of escaping at least these causes of contention? Who does not see, and who does not rejoice to see, that, on this continent, under other forms of government, we have before us the noble hope of being able, by the mere influence of civil liberty and religious toleration, to dry up these outpouring fountains of blood, and to extinguish these consuming fires of war The general opinion of the age favors such hopes and such prospects. There is a growing disposition to treat the intercourse of nations more like the useful intercourse of friends philosophy, just views of national advantage, good sense, the dictates of a common religion, and an increasing conviction that war is not the interest of the human race, all concur to magnify the importance of this new accession to the list of nations.

We have heard it said, Sir, that the topic of South American independence is worn out, and threadbare. Such it may be

Sir, to those who have contemplated it merely as an article of news, like the fluctuation of the markets, or the rise and fall of stocks. Such it may be to those who can see no consequences following from these great events. But whoever has either understood their present importance, or can at all estimate their future influence, whoever has reflected on the new relations they introduce with other states, whoever, among ourselves especially, has meditated on the new relations which we now bear to them, and the striking attitude in which we ourselves are now placed, as the oldest of the American nations, will feel that the topic can never be without interest; and will be sensible that, whether we are wise enough to perceive it or not, the establishment of South American independence will affect all nations, and ourselves perhaps more than any other, through all coming time.

But, Sir, although the independence of these new states seems effectually accomplished, yet a lingering and hopeless war is kept up against them by Spain. This is greatly to be regretted by all nations. To Spain it is, as every reasonable man sees, useless, and without hope. To the new states themselves it is burdensome and afflictive. To the commerce of neutral nations it is annoying and vexatious. There seems to be something of the pertinacity of the Spanish character in holding on in such a desperate course. It reminds us of the seventy years during which Spain resisted the independence of Holland. I think, however, that there is some reason to believe that the war approaches its end. I believe that the measures adopted by our own government have had an effect in tending to produce that result. I understand, at least, that the question of recognition has been taken into consideration by the Spanish government; and it may be hoped that a war which Spain finds to be so expensive, which the whole world tells her is so hopeless, and which, if continued, now threatens her with new dangers, she may, ere long, have the prudence to terminate.

Our own course during this contest between Spain and her colonies is well known. Though entirely and strictly neutral, we were in favor of early recognition. Our opinions were known to the allied sovereigns when in congress at Aix-la-Chapelle in 1818, at which time the affairs of Spain and her colonies were under consideration; and probably the knowledge of those

sentiments, together with the policy adopted by England, prevented any interference by other powers at that time. Yet we have treated Spain with scrupulous delicacy. We acted on the case as one of civil war. We treated with the new governments as governments *de facto*. Not questioning the right of Spain to reduce them to their old obedience, if she had the power, we yet held it to be our right to deal with them as with existing governments in fact, when the moment arrived at which it became apparent and manifest that the dominion of Spain over these, her ancient colonies, was at an end. Our right, our interest, and our duty, all concurred at that moment to recommend the recognition of their independence. We accordingly recognized it.

Now, Sir, the history of this proposed congress goes back to an earlier date than that of our recognition. It commences in 1821; and one of the treaties now before us, proposing such a meeting, that between Colombia and Chili, was concluded in July, 1822, a few months only after we had acknowledged the independence of the new states. The idea originated, doubtless, in the wish to strengthen the union among the new governments, and to promote the common cause of all, the effectual resistance to Spanish authority. As independence was at that time their leading object, it is natural to suppose that they contemplated this mode of mutual intercourse and mutual arrangement, as favorable to the concentration of purpose and of action necessary for the attainment of that object. But this purpose of the congress, or this leading idea, in which it may be supposed to have originated, has led, as it seems to me, to great misapprehensions as to its true character, and great mistakes in regard to the danger to be apprehended from our sending ministers to the meeting. This meeting, Sir, is a congress; not a congress as the word is known to our Constitution and laws, for we use it in a peculiar sense; but as it is known to the law of nations. A congress, by the law of nations, is but an appointed meeting for the settlement of affairs between different nations, in which the representatives or agents of each treat and negotiate as they are instructed by their own government. In other words, this congress is a diplomatic meeting. We are asked to join no government, no legislature, no league, acting by votes. It is a congress, such as those of Westphalia, of

Nimeguen, of Ryswick, or of Utrecht; or such as those which have been held in Europe in our own time. No nation is a party to any thing done in such assemblies, to which it does not expressly make itself a party. No one's rights are put at the disposition of any of the rest, or of all the rest. What ministers agree to, being afterwards duly ratified at home, binds their government; and nothing else binds the government. Whatsoever is done, to which they do not assent, neither binds the ministers nor their government, any more than if they had not been present.

These truths, Sir, seem too plain and too commonplace to be stated. I find my apology only in those misapprehensions of the character of the meeting to which I have referred both now and formerly. It has been said that commercial treaties are not negotiated at such meetings. Far otherwise is the fact. Among the earliest of important stipulations made in favor of commerce and navigation, were those at Westphalia. What we call the treaty of Utrecht, was a bundle of treaties, negotiated at that congress; some of peace, some of boundary, and others of commerce. Again, it has been said, in order to prove that this meeting is a sort of confederacy, that such assemblies are out of the way of ordinary negotiation, and are always founded on, and provided for, by previous treaties. Pray, Sir, what treaty preceded the congress at Utrecht? And the meeting of our plenipotentiaries with those of England at Ghent, what was that but a congress? and what treaty preceded it? It is said, again, that there is no sovereign to whom our ministers can be accredited. Let me ask whether, in the case last cited, our ministers exhibited their credentials to the Mayor of Ghent? Sir, the practice of nations in these matters is well known, and is free from difficulty. If the government be not present, agents or plenipotentiaries interchange their credentials. And when it is said that our ministers at Panama will be, not ministers, but deputies, members of a deliberative body, not protected in their public character by the public law, propositions are advanced of which I see no evidence whatever, and which appear to me to be wholly without foundation.

It is contended that this congress, by virtue of the treaties which the new states have entered into, will possess powers other than those of a diplomatic character, as between those

new states themselves. If that were so, it would be unimportant to us. The real question here is, What will be our relation with those states, by sending ministers to this congress? Their arrangement among themselves will not affect us. Even if it were a government, like our old Confederation, yet, if its members had authority to treat with us in behalf of their respective nations on subjects on which we have a right to treat, the congress might still be a very proper occasion for such negotiations. Do gentlemen forget that the French minister was introduced to our old Congress, met it in its sessions, carried on oral discussions with it, and treated with it in behalf of the French king? All that did not make him a member of it, nor connect him at all with the relations which its members bore to each other. As he treated on the subject of carrying on the war against England, it was, doubtless, hostile towards that power; but this consequence followed from the object and nature of the stipulations, and not from the manner of the intercourse. The representatives of these South American states, it is said, will entertain belligerent counsels at this congress. Be it so; we shall not join in such counsels. At the moment of invitation, our government informed the ministers of those states, that we could not make ourselves a party to the war between them and Spain, nor to counsels for deliberating on the means of its further prosecution.

If, it is asked, we send ministers to a congress composed altogether of belligerents, is it not a breach of neutrality? Certainly not; no man can say it is. Suppose, Sir, that these ministers from the new states, instead of Panama, were to assemble at Bogota, where we already have a minister; their counsels at that place might be belligerent, while the war should last with Spain. But should we on that account recall our minister from Bogota? The whole argument rests on this; that because, at the same time and place, the agents of the South American governments may negotiate about their own relations with each other, in regard to their common war against Spain, therefore we cannot, at the same time and place, negotiate with them, or any of them, upon our own neutral and commercial relations. This proposition, Sir, cannot be maintained; and therefore all the inferences from it fail.

But, Sir, I see no proof that, as between themselves, the rep-

resentatives of the South American states are to possess other than diplomatic powers. I refer to the treaties, which are essentially alike, and which have been often read.

With two exceptions, (which I will notice,) the articles of these treaties, describing the powers of the congress, are substantially like those of the treaty of Paris, in 1814, providing for the congress at Vienna. It was there stipulated that all the powers should send plenipotentiaries to Vienna, to regulate, in general congress, the arrangements to complete the provisions of the present treaty. Now, it might have been here asked, how *regulate?* How regulate in general congress? — regulate by votes? Sir, nobody asked such questions; simply because it was to be a congress of plenipotentiaries. The two exceptions which I have mentioned are, that this congress is to act as a council, and to interpret treaties; but there is nothing in either of these to be done which may not be done diplomatically. What is more common than diplomatic intercourse, to explain and to interpret treaties? Or what more frequent than that nations, having a common object, interchange mutual counsels and advice, through the medium of their respective ministers? To bring this matter, Sir, to the test, let me ask, When these ministers assemble at Panama, can they do any thing but according to their instructions? Have they any organization, any power of action, or any rule of action, common to them all? No more, Sir, than the respective ministers at the congress of Vienna. Every thing is settled by the use of the word Plenipotentiary. That proves the meeting to be diplomatic, and nothing else. Who ever heard of a plenipotentiary member of the legislature? a plenipotentiary burgess of a city? or a plenipotentiary knight of the shire?

We may dismiss all fears, Sir, arising from the nature of this meeting. Our agents will go there, if they go at all, in the character of ministers, protected by the public law, negotiating only for ourselves, and not called on to violate any neutral duty of their own government. If it be that this meeting will have other powers, in consequence of other arrangements between other states, of which I see no proof, still we shall not be a party to these arrangements, nor can we be in any way affected by them. As far as this government is concerned, nothing can be done but by negotiation, as in other cases.

It has been affirmed, that this measure, and the sentiments expressed by the executive relative to its objects, are an acknowledged departure from the neutral policy of the United States Sir, I deny that there is an acknowledged departure, or any departure at all, from the neutral policy of the country. What do we mean by our neutral policy? Not, I suppose, a blind and stupid indifference to whatever is passing around us; not a total disregard to approaching events, or approaching evils, till they meet us full in the face. Nor do we mean, by our neutral policy, that we intend never to assert our rights by force. No, Sir. We mean by our policy of neutrality, that the great objects of national pursuit with us are connected with peace. We covet no provinces; we desire no conquests; we entertain no ambitious projects of aggrandizement by war. This is our policy. But it does not follow from this, that we rely less than other nations on our own power to vindicate our own rights. We know that the last logic of kings is also our last logic; that our own interests must be defended and maintained by our own arm; and that peace or war may not always be of our own choosing. Our neutral policy, therefore, not only justifies, but requires, our anxious attention to the political events which take place in the world, a skilful perception of their relation to our own concerns, and an early anticipation of their consequences, and firm and timely assertion of what we hold to be our own rights and our own interests. Our neutrality is not a predetermined abstinence, either from remonstrances, or from force. Our neutral policy is a policy that protects neutrality, that defends neutrality, that takes up arms, if need be, for neutrality. When it is said, therefore, that this measure departs from our neutral policy, either that policy, or the measure itself, is misunderstood. It implies either that the object or the tendency of the measure is to involve us in the war of other states, which I think cannot be shown, or that the assertion of our own sentiments, on points affecting deeply our own interests, may place us in a hostile attitude toward other states, and that therefore we depart from neutrality; whereas the truth is, that the decisive assertion and the firm support of these sentiments may be most essential to the maintenance of neutrality.

An hor orable member from Pennsylvania thinks this congress will bring a dark day over the United States. Doubtless, Sir, it

is an interesting moment in our history; but I see no great proofs of thick-coming darkness. But the object of the remark seemed to be to show that the President himself saw difficulties on all sides, and, making a choice of evils, preferred rather to send ministers to this congress, than to run the risk of exciting the hostility of the states by refusing to send. In other words, the gentleman wished to prove that the President intended an alliance; although such intention is expressly disclaimed.

Much commentary has been bestowed on the letters of invitation from the ministers. I shall not go through with verbal criticisms on these letters. Their general import is plain enough. I shall not gather together small and minute quotations, taking a sentence here, a word there, and a syllable in a third place, dovetailing them into the course of remark, till the printed discourse bristles in every line with inverted commas. I look to the general tenor of the invitations, and I find that we are asked to take part only in such things as concern ourselves. I look still more carefully to the answers, and I see every proper caution and proper guard. I look to the message, and I see that nothing is there contemplated likely to involve us in other men's quarrels, or that may justly give offence to any foreign state. With this I am satisfied.

I must now ask the indulgence of the committee to an important point in the discussion, I mean the declaration of the President in 1823.* Not only as a member of the House, but as a citizen of the country, I have an anxious desire that this part of our public history should stand in its proper light. The country has, in my judgment, a very high honor connected with that occurrence, which we may maintain, or which we may sacrifice. I look upon it as a part of its treasures of reputation; and, for one, I intend to guard it.

* In the message of President Monroe to Congress at the commencement of the session of 1823–24, the following passage occurs: — "In the wars of the European powers, in matters relating to themselves, we have never taken any part, nor does it comport with our policy so to do. It is only when our rights are invaded, or seriously menaced, that we resent injuries or make preparations for defence. With the movements in this hemisphere we are of necessity more immediately connected, and by causes which must be obvious to all enlightened and impartial observers. The political system of the Allied Powers is essentially different, in this respect, from that of America. This difference proceeds from that which exists in their respective governments. And to the defence of our own, which has been achieved by the loss of so much blood and treasure, and matured by the wisdom of their most enlightened citizens, and under which we

Sir, let us recur to the important political events which led to that declaration, or accompanied it. In the fall of 1822, the allied sovereigns held their congress at Verona. The great subject of consideration was the condition of Spain, that country then being under the government of the Cortes. The question was, whether Ferdinand should be reinstated in all his authority, by the intervention of foreign force. Russia, Prussia, France, and Austria were inclined to that measure; England dissented and protested; but the course was agreed on, and France, with the consent of these other Continental powers, took the conduct of the operation into her own hands. In the spring of 1823, a French army was sent into Spain. Its success was complete. The popular government was overthrown, and Ferdinand re-established in all his power. This invasion, Sir, was determined on, and undertaken, precisely on the doctrines which the allied monarchs had proclaimed the year before, at Laybach; that is, that they had a right to interfere in the concerns of another state, and reform its government, in order to prevent the effects of its bad example; this bad example, be it remembered, always being the example of free government. Now, Sir, acting on this principle of supposed dangerous example, and having put down the example of the Cortes in Spain, it was natural to inquire with what eyes they would look on the colonies of Spain, that were following still worse examples. Would King Ferdinand and his allies be content with what had been done in Spain itself, or would he solicit their aid, and was it likely they would grant it, to subdue his rebellious American provinces?

Sir, it was in this posture of affairs, on an occasion which has already been alluded to, that I ventured to say, early in the session of December, 1823, that these allied monarchs might possibly turn their attention to America; that America came within

have enjoyed such unexampled felicity, this whole nation is devoted. We owe it, therefore, to candor, and to the amicable relations existing between the United States and those powers, to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. With the existing colonies or dependencies of any European power, we have not interfered and shall not interfere. But with the governments who have declared their independence and maintained it, and whose independence we have on great consideration and on just principles acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling in any other manner their destiny, in any other light than as the manifestation of an unfriendly disposition toward the United States."

their avowed doctrine, and that her examples might very possibly attract their notice. The doctrines of Laybach were not limited to any continent. Spain had colonies in America, and having reformed Spain herself to the true standard, it was not impossible that they might see fit to complete the work by reconciling, in their way, the colonies to the mother country. Now, Sir, it did so happen, that, as soon as the Spanish king was completely reëstablished, he invited the coöperation of his allies, in regard to South America. In the same month of December, of 1823, a formal invitation was addressed by Spain to the courts of St. Petersburg, Vienna, Berlin, and Paris, proposing to establish a conference at Paris, in order that the plenipotentiaries there assembled might aid Spain in adjusting the affairs of her revolted provinces. These affairs were proposed to be adjusted in such manner as should retain the sovereignty of Spain over them; and though the coöperation of the allies by force of arms was not directly solicited, such was evidently the object aimed at. The king of Spain, in making this request to the members of the Holy Alliance, argued as it has been seen he might argue. He quoted their own doctrines of Laybach; he pointed out the pernicious example of America; and he reminded them that their success in Spain itself had paved the way for successful operations against the spirit of liberty on this side of the Atlantic.

The proposed meeting, however, did not take place. England had already taken a decided course; for as early as October, Mr. Canning, in a conference with the French minister in London, informed him distinctly and expressly, that England would consider any foreign interference, by force or by menace, in the dispute between Spain and the colonies, as a motive for recognizing the latter without delay. It is probable this determination of the English government was known here at the commencement of the session of Congress; and it was under these circumstances, it was in this crisis, that Mr. Monroe's declaration was made. It was not then ascertained whether a meeting of the allies would or would not take place, to concert with Spain the means of reëstablishing her power; but it was plain enough they would be pressed by Spain to aid her operations; and it was plain enough, also, that they had no particular liking to what was taking place on this side of the Atlantic, nor any great disinclina-

tion to interfere. This was the posture of affairs; and, Sir, I concur entirely in the sentiment expressed in the resolution of a gentleman from Pennsylvania,* that this declaration of Mr. Monroe was wise, seasonable, and patriotic.

It has been said, in the course of this debate, to have been a loose and vague declaration. It was, I believe, sufficiently studied. I have understood, from good authority, that it was considered, weighed, and distinctly and decidedly approved, by every one of the President's advisers at that time. Our government could not adopt on that occasion precisely the course which England had taken. England threatened the immediate recognition of the provinces, if the Allies should take part with Spain against them. We had already recognized them. It remained, therefore, only for our government to say how we should consider a combination of the Allied Powers, to effect objects in America, as affecting ourselves; and the message was intended to say, what it does say, that we should regard such combination as dangerous to us. Sir, I agree with those who maintain the proposition, and I contend against those who deny it, that the message did mean something; that it meant much; and I maintain, against both, that the declaration effected much good, answered the end designed by it, did great honor to the foresight and the spirit of the government, and that it cannot now be taken back, retracted, or annulled, without disgrace. It met, Sir, with the entire concurrence and the hearty approbation of the country. The tone which it uttered found a corresponding response in the breasts of the free people of the United States. That people saw, and they rejoiced to see, that, on a fit occasion, our weight had been thrown into the right scale, and that, without departing from our duty, we had done something useful, and something effectual, for the cause of civil liberty. One general glow of exultation, one universal feeling of the gratified love of liberty, one conscious and proud perception of the consideration which the country possessed, and of the respect and honor which belonged to it, pervaded all bosoms. Possibly the public enthusiasm went too far; it certainly did go far. But, Sir, the sentiment which this declaration inspired was not confined to ourselves. Its force was felt everywhere, by all those who could understand its object and foresee its effect. In that

* Mr. Markley

very House of Commons of which the gentleman from South Carolina has spoken with such commendation, how was it received? Not only, Sir, with approbation, but, I may say, with no little enthusiasm. While the leading minister* expressed his entire concurrence in the sentiments and opinions of the American President, his distinguished competitor† in that popular body, less restrained by official decorum, and more at liberty to give utterance to all the feeling of the occasion, declared that no event had ever created greater joy, exultation, and gratitude among all the free men in Europe; that he felt pride in being connected by blood and language with the people of the United States; that the policy disclosed by the message became a great, a free, and an independent nation; and that he hoped his own country would be prevented by no mean pride, or paltry jealousy, from following so noble and glorious an example.

It is doubtless true, as I took occasion to observe the other day, that this declaration must be considered as founded on our rights, and to spring mainly from a regard to their preservation. It did not commit us, at all events, to take up arms on any indication of hostile feeling by the powers of Europe towards South America. If, for example, all the states of Europe had refused to trade with South America until her states should return to their former allegiance, that would have furnished no cause of interference to us. Or if an armament had been furnished by the Allies to act against provinces the most remote from us, as Chili or Buenos Ayres, the distance of the scene of action diminishing our apprehension of danger, and diminishing also our means of effectual interposition, might still have left us to content ourselves with remonstrance. But a very different case would have arisen, if an army, equipped and maintained by these powers, had been landed on the shores of the Gulf of Mexico, and commenced the war in our own immediate neighborhood. Such an event might justly be regarded as dangerous to ourselves, and, on that ground, call for decided and immediate interference by us. The sentiments and the policy announced by the declaration, thus understood, were, therefore, in strict conformity to our duties and our interest.

Sir, I look on the message of December, 1823, as forming a bright page in our history. I will help neither to erase it nor tear

* Mr. Canning. † Mr. Brougham.

it out; nor shall it be, by any act of mine, blurred or blotted. It did honor to the sagacity of the government, and I will not diminish that honor. It elevated the hopes, and gratified the patriotism, of the people. Over those hopes I will not bring a mildew; nor will I put that gratified patriotism to shame.

But how should it happen, Sir, that there should now be such a new-born fear on the subject of this declaration? The crisis is over; the danger is past. At the time it was made, there was real ground for apprehension; now there is none. It was then possible, perhaps not improbable, that the Allied Powers might interfere with America. There is now no ground for any such fear. Most of the gentlemen who have now spoken on the subject were at that time here. They all heard the declaration. Not one of them complained. And yet now, when all danger is over, we are vehemently warned against the sentiments of the declaration.

To avoid this apparent inconsistency, it is, however, contended, that new force has been recently given to this declaration. But of this I see no evidence whatever. I see nothing in any instructions or communications from our government changing the character of that declaration in any degree. There is, as I have before said, in one of Mr. Poinsett's letters, an inaccuracy of expression. If he has recited correctly his conversation with the Mexican minister, he did go too far, farther than any instruction warranted. But, taking his whole correspondence together, it is quite manifest that he has deceived nobody, and that he has not committed the country. On the subject of a pledge, he put the Mexican minister entirely right. He stated to him distinctly, that this government had given no pledge which others could call upon it to redeem. What could be more explicit? Again, Sir, it is plain that Mexico thought us under no greater pledge than England; for the letters to the English and American ministers, requesting interference, were in precisely the same words. When this passage in Mr. Poinsett's letter was first noticed, we were assured there was and must be some other authority for it. It was confidently said he had instructions authorizing it in his pocket. It turns out otherwise. As little ground is there to complain of any thing in the Secretary's letter to Mr. Poinsett. It seems to me to be precisely what it should be. It does not, as has been alleged, propose any coöperation between the government of Mexico and our own. Nothing like it. It instructs

our ministers to bring to the notice of the Mexican government the line of policy which we have marked out for ourselves, acting on our own grounds, and for our own interests; and to suggest to that government, acting on its own ground, and for its own interests, the propriety of following a similar course. Here, Sir, is no alliance, nor even any coöperation.

So, again, as to the correspondence which refers to the appearance of the French fleet in the West India seas. Be it remembered that our government was contending, in the course of this correspondence with Mexico, for an equality in matters of commerce. It insisted on being placed, in this respect, on the same footing as the other Spanish American states. To enforce this claim, our known friendly sentiments towards Mexico, as well as to the rest of the new states, were suggested, and properly suggested. Mexico was reminded of the timely declaration which had been made of these sentiments. She was reminded that she herself had been well inclined to claim the benefit resulting from that declaration, when a French fleet appeared in the neighboring seas; and she was referred to the course adopted by our government on that occasion, with an intimation that she might learn from it how the same government would have acted if other possible contingencies had happened. What is there in all this of any renewed pledge, or what is there of any thing beyond the true line of our policy? Do gentlemen mean to say that the communication made to France, on this occasion, was improper? Do they mean to repel and repudiate that declaration? That declaration was, that we could not see Cuba transferred from Spain to another European power. If the House mean to contradict that, be it so. If it do not, then, as the government had acted properly in this case, it did furnish ground to believe it would act properly, also, in other cases, when they arose. And the reference to this incident or occurrence by the Secretary was pertinent to the argument which he was pressing on the Mexican government.

I have but a word to say on the subject of the declaration against European colonization in America. The late President seems to have thought the occasion used by him for that purpose to be a proper one for the open avowal of a principle which had already been acted on. Great and practical inconveniences, it was feared, might be apprehended from the establishment of

new colonies in America, having a European origin and a European connection. Attempts of that kind, it was obvious, might possibly be made, amidst the changes that were taking place in Mexico, as well as in the more southern states. Mexico bounds us, on a vast length of line, from the Gulf of Mexico to the Pacific Ocean. There are many reasons why it should not be desired by us, that an establishment, under the protection of a different power, should occupy any portion of that space. We have a general interest, that, through all the vast territories rescued from the dominion of Spain, our commerce may find its way, protected by treaties with governments existing on the spot. These views, and others of a similar character, rendered it highly desirable to us, that these new states should settle it, as a part of their policy, not to allow colonization within their respective territories. True, indeed, we did not need their aid to assist us in maintaining such a course for ourselves; but we had an interest in their assertion and support of the principle as applicable to their own territories.

I now proceed, Mr. Chairman, to a few remarks on the subject of Cuba, the most important point of our foreign relations. It is the hinge on which interesting events may possibly turn. I pray gentlemen to review their opinions on this subject before they fully commit themselves. I understood the honorable member from South Carolina to say, that if Spain chose to transfer this island to any power in Europe, she had a right to do so, and we could not interfere to prevent it. Sir, this is a delicate subject. I hardly feel competent to treat it as it deserves; and I am not quite willing to state here all that I think about it. I must, however, dissent from the opinion of the gentleman from South Carolina. The rights of nations, on subjects of this kind, are necessarily very much modified by circumstances. Because England or France could not rightfully complain of the transfer of Florida to us, it by no means follows, as the gentleman supposes, that we could not complain of the cession of Cuba to one of them. The plain difference is, that the transfer of Florida to us was not dangerous to the safety of either of those nations, nor fatal to any of their great and essential interests. Proximity of position, neighborhood, whatever augments the power of injuring and annoying, very properly belong to the consideration of all cases of this kind. The greater or less facility

of access itself is of consideration in such questions, because it brings, or may bring, weighty consequences with it. It justifies, for these reasons and on these grounds, what otherwise might never be thought of. By negotiation with a foreign power, Mr. Jefferson obtained a province. Without any alteration of our Constitution, we have made it part of the United States, and its Senators and Representatives, now coming from several States, are here among us. Now, Sir, if, instead of being Louisiana, this had been one of the provinces of Spain proper, or one of her South American colonies, he must have been a madman that should have proposed such an acquisition. A high conviction of its convenience, arising from proximity and from close natural connection, alone reconciled the country to the measure. Considerations of the same sort have weight in other cases.

An honorable member from Kentucky * argues, that although we might rightfully prevent another power from taking Cuba from Spain by force, yet, if Spain should choose to make the voluntary transfer, we should have no right whatever to interfere. Sir, this is a distinction without a difference. If we are likely to have contention about Cuba, let us first well consider what our rights are, and not commit ourselves. And, Sir, if we have any right to interfere at all, it applies as well to the case of a peaceable as to that of a forcible transfer. If nations be at war, we are not judges of the question of right in that war; we must acknowledge in both parties the mutual right of attack and the mutual right of conquest. It is not for us to set bounds to their belligerent operations so long as they do not affect ourselves. Our right to interfere in any such case is but the exercise of the right of reasonable and necessary self-defence. It is a high and delicate exercise of that right; one not to be made but on grounds of strong and manifest reason, justice, and necessity. The real question is, whether the possession of Cuba by a great maritime power of Europe would seriously endanger our own immediate security or our essential interests. I put the question, Sir, in the language of some of the best considered state papers of modern times. The general rule of national law is, unquestionably, against interference in the transactions of other states. There are, however, acknowledged

* Mr. Wickliffe.

exceptions, growing out of circumstances and founded in those circumstances. These exceptions, it has been properly said, cannot without danger be reduced to previous rule, and incorporated into the ordinary diplomacy of nations. Nevertheless, they do exist, and must be judged of, when they arise, with a just regard to our own essential interests, but in a spirit of strict justice and delicacy also towards foreign states.

The ground of these exceptions is, as I have already stated, self-preservation. It is not a slight injury to our interest, it is not even a great inconvenience, that makes out a case. There must be danger to our security, or danger, manifest and imminent danger, to our essential rights and our essential interests. Now, Sir, let us look at Cuba. I need hardly refer to its present amount of commercial connection with the United States. Our statistical tables, I presume, would show us that our commerce with the Havana alone is more in amount than our whole commercial intercourse with France and all her dependencies. But this is but one part of the case, and not the most important. Cuba, as is well said in the report of the Committee of Foreign Affairs, is placed in the mouth of the Mississippi. Its occupation by a strong maritime power would be felt, in the first moment of hostility, as far up the Mississippi and the Missouri as our population extends. It is the commanding point of the Gulf of Mexico. See, too, how it lies in the very line of our coastwise traffic; interposed in the very highway between New York and New Orleans.

Now, Sir, who has estimated, or who can estimate, the effect of a change which should place this island in other hands, subject it to new rules of commercial intercourse, or connect it with objects of a different and still more dangerous nature? Sir, I repeat that I feel no disposition to pursue this topic on the present occasion. My purpose is only to show its importance, and to beg gentlemen not to prejudice any rights of the country by assenting to propositions, which, perhaps, it may be necessary hereafter to review.

And here I differ again with the gentleman from Kentucky He thinks, that, in this as in other cases, we should wait till the event comes, without any previous declaration of our sentiments upon subjects important to our own rights or our own interests Sir, such declarations are often the appropriate means of pre-

venting that which, if unprevented, it might be difficult to redress. A great object in holding diplomatic intercourse is frankly to expose the views and objects of nations, and to prevent, by candid explanation, collision and war. In this case, the government had said that we could not assent to the transfer of Cuba to another European state. Can we so assent? Do gentlemen think we can? If not, then it was entirely proper that this intimation should be frankly and seasonably made. Candor required it; and it would have been unpardonable, it would have been injustice, as well as folly, to be silent while we might suppose the transaction to be contemplated, and then to complain of it afterwards. If we should have a subsequent right to complain, we have a previous right, equally clear, of protesting; and if the evil be one which, when it comes, would allow us to apply a remedy, it not only allows us, but it makes it our duty, also to apply prevention.

But, Sir, while some gentlemen have maintained that on the subject of a transfer to any of the European powers the President has said too much, others insist that on that of the occupation of the island by Mexico or Colombia he has said and done too little. I presume, Sir, for my own part, that the strongest language has been directed to the source of greatest danger. Heretofore that danger was, doubtless, greatest which was apprehended from a voluntary transfer. The other has been met as it arose; and, thus far, adequately and sufficiently met.

And here, Sir, I cannot but say that I never knew a more extraordinary argument than we have heard on the conduct of the executive on this part of the case. The President is charged with inconsistency; and in order to make this out, public despatches are read, which, it is said, militate with one another.

Sir, what are the facts? This government saw fit to invite the Emperor of Russia to use his endeavors to bring Spain to treat of peace with her revolted colonies. Russia was addressed on this occasion as the friend of Spain; and, of course, every argument which it was thought might have influence, or ought to have influence, either on Russia or Spain, was suggested in the correspondence. Among other things, the probable loss to Spain of Cuba and Porto Rico was urged; and the question was asked, how it was or could be expected by Spain, that the United States should interfere to prevent Mexico and Colombia

from taking those islands from her, since she was their enemy, in a public war, and since she pertinaciously, and unreasonably, as we think, insists on maintaining the war; and since these islands offered an obvious object of attack. Was not this, Sir, a very proper argument to be urged to Spain? A copy of this despatch, it seems, was sent to the Senate in confidence. It has not been published by the executive. Now, the alleged inconsistency is, that, notwithstanding this letter, the President has interfered to dissuade Mexico and Colombia from attacking Cuba; that, finding or thinking that those states meditated such a purpose, this government has urged them to desist from it. Sir, was ever any thing more unreasonable than this charge? Was it not proper, that, to produce the desired result of peace, our government should address different motives to the different parties in the war? Was it not its business to set before each party its dangers and its difficulties in pursuing the war? And if now, by any thing unexpected, these respective correspondences have become public, are these different views, addressed thus to different parties and with different objects, to be relied on as proof of inconsistency? It is the strangest accusation ever heard of. No government not wholly destitute of common sense would have acted otherwise. We urged the proper motives to both parties. To Spain we urged the probable loss of Cuba; we showed her the dangers of its capture by the new states; and we asked her to inform us on what ground it was that we could interfere to prevent such capture, since she was at war with those states, and they had an unquestionable right to attack her in any of her territories; and, especially, she was asked how she could expect good offices from us on this occasion, since she fully understood our opinion to be that she was persisting in the war without or beyond all reason, and with a sort of desperation. This was the appeal made to the good sense of Spain, through Russia. But soon afterwards, having reason to suspect that Colombia and Mexico were actually preparing to attack Cuba, and knowing that such an event would most seriously affect us, our government remonstrated against such meditated attack, and to the present time it has not been made. In all this, who sees any thing either improper or inconsistent? For myself, I think that the course pursued showed a watchful regard to our own interest, and is wholly free from any imputation either of impropriety or inconsistency.

There are other subjects, Sir, in the President's message, which have been discussed in the debate, but on which I shall not long detain the committee.

It cannot be denied, that, from the commencement of our government, it has been its object to improve and simplify the principles of national intercourse. It may well be thought a fit occasion to urge these improved principles at a moment when so many new states are coming into existence, untrammelled, of course, with previous and long-established connections or habits. Some hopes of benefit connected with these topics are suggested in the message.

The abolition of private war on the ocean is also among the subjects of possible consideration. This is not the first time that that subject has been mentioned. The late President took occasion to enforce the considerations which he thought recommended it. For one, I am not prepared to say how far such abolition may be practicable, or how far it ought to be pursued; but there are views belonging to the subject which have not been, in any degree, answered or considered in this discussion. It is not always the party that has the power of employing the largest military marine that derives the greatest benefit from authorizing privateers in war. It is not enough that there are brave and gallant captors; there must be something to be captured. Suppose, Sir, a war between ourselves and any one of the new states of South America were now existing, who would lose most by the practice of privateering in such a war? There would be nothing for us to attack, while the means of attacking us would flow to our enemies from every part of the world. Capital, ships, and men would be abundant in all their ports, and our commerce, spread over every sea, would be the destined prey. So, again, if war should unhappily spring up among those states themselves, might it not be for our interest, as being likely to be much connected by intercourse with all parties, that our commerce should be free from the visitation and search of private armed ships, one of the greatest vexations to neutral commerce in time of war? These, Sir, are some of the considerations belonging to this subject. I have mentioned them only to show that they well deserve serious attention.

I have not intended to reply to the many observations which have been submitted to us on the message of the President to

this House, or that to the Senate. Certainly I am of opinion, that some of those observations merited an answer, and they have been answered by others. On two points only will I make a remark. It has been said, and often repeated, that the President, in his message to the Senate, has spoken of his own power in regard to missions in terms which the Constitution does not warrant. If gentlemen will turn to the message of President Washington relative to the mission to Lisbon,* they will see almost the exact form of expression used in this case. The other point on which I would make a remark is the allegation that an unfair use has been made, in the argument of the message, of General Washington's Farewell Address. There would be no end, Sir, to comments and criticisms of this sort if they were to be pursued. I only observe, that, as it appears to me, the argument of the message, and its use of the Farewell Address, are not fairly understood. It is not attempted to be inferred from the Farewell Address, that, according to the opinion of Washington, we ought now to have alliances with foreign states. No such thing. The Farewell Address recommends to us to abstain as much as possible from all sorts of political connection with the states of Europe, alleging as the reason for this advice, that Europe has a set of primary interests of her own, separate from ours, and with which we have no natural connection. Now the message argues, and argues truly, that, the new South American states not having a set of interests of their own, growing out of the balance of power, family alliances, and other similar causes, separate from ours, in the same manner and to the same degree as the primary interests of Europe were represented to be, this part of the Farewell Address, aimed at those separate interests expressly, did not apply in this case. But does the message infer from this the propriety of alliances with these new states? Far from it. It infers no such thing. On the contrary, it disclaims all such purpose.

There is one other point, Sir, on which common justice requires a word to be said. It has been alleged that there are material differences as to the papers sent respectively to the two houses. All this, as it seems to me, may be easily and satisfactorily explained. In the first place, the instructions of May

* Sparks's Washington, Vol. XII. p. 92.

1825, which, it is said, were not sent to the Senate, were instructions on which a treaty had been already negotiated; which treaty had been subsequently ratified by the Senate. It may be presumed, that, when the treaty was sent to the Senate, the instructions accompanied it; and if so, they were actually already before the Senate; and this accounts for one of the alleged differences. In the next place, the letter to Mr. Middleton, in Russia, not sent to the House, but now published by the Senate, is such a paper as possibly the President might not think proper to make public. There is evident reason for such an inference. And, lastly, the correspondence of Mr. Brown, sent here, but not to the Senate, appears from its date to have been received after the communication to the Senate. Probably when sent to us, it was also sent, by another message, to that body.

These observations, Sir, are tedious and uninteresting. I am glad to be through with them. And here I might terminate my remarks, and relieve the patience, now long and heavily taxed, of the committee. But there is one part of the discussion, on which I must ask to be indulged with a few observations.

Pains, Sir, have been taken by the honorable member from Virginia, to prove that the measure now in contemplation, and, indeed, the whole policy of the government respecting South America, is the unhappy result of the influence of a gentleman formerly filling the chair of this House. To make out this, he has referred to certain speeches of that gentleman delivered here. He charges him with having become himself affected at an early day with what he is pleased to call the South American fever; and with having infused its baneful influence into the whole counsels of the country.

If, Sir, it be true that that gentleman, prompted by an ardent love of civil liberty, felt earlier than others a proper sympathy for the struggling colonies of South America; or that, acting on the maxim that revolutions do not go backward, he had the sagacity to foresee, earlier than others, the successful termination of those struggles; if, thus feeling, and thus perceiving, it fell to him to lead the willing or unwilling counsels of his country, in her manifestations of kindness to the new governments, and in her seasonable recognition of their independence, — if it be this which the honorable member imputes to him, if it be by this course of public conduct that he has identified his name

with the cause of South American liberty, he ought to be esteemed one of the most fortunate men of the age. If all this be as is now represented, he has acquired fame enough. It is enough for any man thus to have connected himself with the greatest events of the age in which he lives, and to have been foremost in measures which reflect high honor on his country, in the judgment of mankind. Sir, it is always with great reluctance that I am drawn to speak, in my place here, of individuals; but I could not forbear what I have now said, when I hear, in the House of Representatives, and in this land of free spirits, that it is made matter of imputation and of reproach to have been first to reach forth the hand of welcome and of succor to new-born nations, struggling to obtain and to enjoy the blessings of liberty.

We are told that the country is deluded and deceived by cabalistic words. Cabalistic words! If we express an emotion of pleasure at the results of this great action of the spirit of political liberty; if we rejoice at the birth of new republican nations, and express our joy by the common terms of regard and sympathy; if we feel and signify high gratification that, throughout this whole continent, men are now likely to be blessed by free and popular institutions; and if, in the uttering of these sentiments, we happen to speak of sister republics, of the great American family of nations, or of the political system and forms of government of this hemisphere, then indeed, it seems, we deal in senseless jargon, or impose on the judgment and feeling of the community by cabalistic words! Sir, what is meant by this? Is it intended that the people of the United States ought to be totally indifferent to the fortunes of these new neighbors? Is no change in the lights in which we are to view them to be wrought, by their having thrown off foreign dominion, established independence, and instituted on our very borders republican governments essentially after our own example?

Sir, I do not wish to overrate, I do not overrate, the progress of these new states in the great work of establishing a well-secured popular liberty. I know that to be a great attainment, and I know they are but pupils in the school. But, thank God, they are in the school. They are called to meet difficulties such as neither we nor our fathers encountered. For these we ought to make large allowances. What have we ever known like the

colonial vassalage of these states? When did we or our ancestors feel, like them, the weight of a political despotism that presses men to the earth, or of that religious intolerance which would shut up heaven to all of a different creed? Sir, we sprung from another stock. We belong to another race. We have known nothing, we have felt nothing, of the political despotism of Spain, nor of the heat of her fires of intolerance. No rational man expects that the South can run the same rapid career as the North; or that an insurgent province of Spain is in the same condition as the English colonies when they first asserted their independence. There is, doubtless, much more to be done in the first than in the last case. But on that account the honor of the attempt is not less; and if all difficulties shall be in time surmounted, it will be greater. The work may be more arduous, it is not less noble, because there may be more of ignorance to enlighten, more of bigotry to subdue, more of prejudice to eradicate. If it be a weakness to feel a strong interest in the success of these great revolutions, I confess myself guilty of that weakness. If it be weak *to feel that I am* an American, to think that recent events have not only opened new modes of intercourse, but have created also new grounds of regard and sympathy between ourselves and our neighbors; if it be weak to feel that the South, in her present state, is somewhat more emphatically a part of America than when she lay obscure, oppressed, and unknown, under the grinding bondage of a foreign power; if it be weak to rejoice when, even in any corner of the earth, human beings are able to rise from beneath oppression, to erect themselves, and to enjoy the proper happiness of their intelligent nature; — if this be weak, it is a weakness from which I claim no exemption.

A day of solemn retribution now visits the once proud monarchy of Spain. The prediction is fulfilled. The spirit of Montezuma and of the Incas might now well say, —

> "Art thou, too, fallen, Iberia? Do we see
> The robber and the murderer weak as we?
> Thou! that hast wasted earth and dared despise
> Alike the wrath and mercy of the skies,
> Thy pomp is in the grave; thy glory laid
> Low in the pits thine avarice has made."*

* Cowper's Charity.

Mr. Chairman, I will only detain you with one more reflection on this subject. We cannot be so blind, we cannot so shut up our senses and smother our faculties, as not to see, that, in the progress and the establishment of South American liberty, our own example has been among the most stimulating causes. In their emergencies, they have looked to our experience; in their political institutions, they have followed our models; in their deliberations, they have invoked the presiding spirit of our own liberty. They have looked steadily, in every adversity, to the *great Northern light.* In the hour of bloody conflict, they have remembered the fields which have been consecrated by the blood of our own fathers; and when they have fallen, they have wished only to be remembered with them, as men who had acted their parts bravely for the cause of liberty in the Western World.

Sir, I have done. If it be weakness to feel the sympathy of one's nature excited for such men, in such a cause, I am guilty of that weakness. If it be prudence to meet their proffered civility, not with reciprocal kindness, but with coldness or with insult, I choose still to follow where natural impulse leads, and to give up that false and mistaken prudence for the voluntary sentiments of my heart.

REVOLUTIONARY OFFICERS.*

Mr. President, — It has not been my purpose to take any part in the discussion of this bill. My opinions in regard to its general object, I hope, are well known; and I had intended to content myself with a steady and persevering vote in its favor. But when the moment of final decision has come, and the division is so likely to be nearly equal, I feel it to be a duty to put, not only my own vote, but my own earnest wishes also, and my fervent entreaties to others, into the doubtful scale.

It must be admitted, Sir, that the persons for whose benefit this bill is designed are, in some respects, peculiarly unfortunate. They are compelled to meet not only objections to the principle, but, whichever way they turn themselves, embarrassing objections also to details. One friend hesitates at this provision, and another at that; while those who are not friends at all of course oppose every thing, and propose nothing. When it was contemplated, heretofore, to give the petitioners a sum outright in satisfaction of their claim, then the argument was, among other things, that the treasury could not bear so heavy a draught on its means at the present moment. The plan is accordingly changed; an annuity is proposed; and then the objection changes also. It is now said, that this is but granting pensions, and that the pension system has already been carried too far. I confess, Sir, I felt wounded, deeply hurt, at the observations of the gentleman from Georgia. "So, then," said he, "these modest and high-minded gentlemen take a pension at last!" How is it possible that a gentleman of his generosity of character, and gen-

* A Speech delivered in the Senate of the United States, on the 25th of April, 1828, on the Bill for the Relief of the Surviving Officers of the Revolution.

eral kindness of feeling, can indulge in such a tone of triumphant irony towards a few old, gray-headed, poor, and broken warriors of the Revolution! There is, I know, something repulsive and opprobrious in the name of pension. But God forbid that I should taunt them with it! With grief, heart-felt grief, do I behold the necessity which leads these veterans to accept the bounty of their country, in a manner not the most agreeable to their feelings. Worn out and decrepit, represented before us by those, their former brothers in arms, who totter along our lobbies, or stand leaning on their crutches, I, for one, would most gladly support such a measure as should consult at once their services, their years, their necessities, and the delicacy of their sentiments. I would gladly give, with promptitude and grace, with gratitude and delicacy, that which merit has earned and necessity demands.

Sir, what are the objections urged against this bill? Let us look at them, and see if they be real; let us weigh them, to know if they be solid; for we are not acting on a slight matter, nor is what we do likely to pass unobserved now, or to be forgotten hereafter. I regard the occasion as one full of interest and full of responsibility. Those individuals, the little remnant of a gallant band, whose days of youth and manhood were spent for their country in the toils and dangers of the field, are now before us, poor and old, — intimating their wants with reluctant delicacy, and asking succor from their country with decorous solicitude. How we shall treat them it behooves us well to consider, not only for their sake, but for our own sake also, and for the sake of the honor of the country. Whatever we do will not be done in a corner. Our constituents will see it; the people will see it; the world will see it.

Let us candidly examine, then, the objections which have been raised to this bill, with a disposition to yield to them, if from necessity we must, but to overcome them, if in fairness we can.

In the first place, it is said that we ought not to pass the bill, because it will involve us in a charge of unknown extent. We are reminded, that, when the general pension law for Revolutionary soldiers passed, an expense was incurred far beyond what had been contemplated; that the estimate of the number of surviving Revolutionary soldiers proved altogether fallacious;

and that, for aught we know, the same mistake may be committed now.

Is this objection well founded? Let me say, in the first place, that if one measure, right in itself, has gone farther than it was intended to be carried, for want of accurate provisions and adequate guards, this may furnish a very good reason for supplying such guards and provisions in another measure, but can afford no ground at all for rejecting such other measure altogether, if it be in itself just and reasonable. We should avail ourselves of our experience, it seems to me, to correct what has been found amiss; and not draw from it an undistinguishing resolution to do nothing, merely because it has taught us, that, in something we have already done, we have acted with too little care. In the next place, does the fact bear out this objection? Is there any difficulty in ascertaining the number of the officers who will be benefited by this bill, and in estimating the expense, therefore, which it will create? I think there is none. The records in the department of war and the treasury furnish such evidence that there is no danger of material mistake. The diligence of the chairman of the committee has enabled him to lay the facts connected with this part of the case so fully and minutely before the Senate, that I think no one can feel serious doubt. Indeed, it is admitted by the adversaries of the bill, that this objection does not apply here with the same force as in the former pension-law. It is admitted that there is a greater facility in this case than in that, in ascertaining the number and names of those who will be entitled to receive that bounty.

This objection, then, is not founded in true principle; and if it were, it is not sustained by the facts. I think we ought not to yield to it, unless, (which I know is not the sentiment which pervades the Senate,) feeling that the measure ought not to pass, we still prefer not to place our opposition to it on a distinct and visible ground, but to veil it under vague and general objections.

In the second place, it has been objected that the operation of the bill will be unequal, because all officers of the same rank will receive equal benefit from it, although they entered the army at different times, and were of different ages. Sir, is not this that sort of inequality which must always exist in every general provision. Is it possible that any law can descend into such par-

ticulars? Would there be any reason why it should do so, if it could? The bill is intended for those who, being in the army in October, 1780, then received a solemn promise of half-pay for life, on condition that they would continue to serve through the war. Their ground of merit is, that, whensoever they joined the army, being thus solicited by their country to remain in it, they at once went for the whole; they fastened their fortunes to the standards which they bore, and resolved to continue their military service till it should terminate either in their country's success or in their own death. This is their merit and their ground of claim. How long they had been already in service, is immaterial and unimportant. They were then in service; the salvation of their country depended on their continuing in that service. Congress saw this imperative necessity, and earnestly solicited them to remain, and promised the compensation. They saw the necessity also, and they yielded to it.

But, again, it is said that the present time is not auspicious. The bill, it is urged, should not pass now. The venerable member from North Carolina says, as I understood him, that he would be almost as willing that the bill should pass at some other session, as be discussed at this. He speaks of the distresses of the country at the present moment, and of another bill, now in the Senate, having, as he thinks, the effect of laying new taxes upon the people. He is for postponement. But it appears to me, with entire respect for the honorable member, that this is one of the cases least of all fit for postponement. It is not a measure that, if omitted this year, may as well be done next. Before the next year comes, some of those who need the relief may be beyond its reach. To postpone for another year an annuity to persons already so aged, — an annuity founded on the merit of services which were rendered half a century ago, — to postpone to another whole year a bill for the relief of deserving men, — proposing, not aggrandizement, but support, not emolument, but bread, — is a mode of disposing of it in which I cannot concur.

But it is argued, in the next place, that the bill ought not to pass, because those who have spoken in its favor have placed it on different grounds. They have not agreed, it is said, whether it is to be regarded as a matter of right, or matter of gratuity, or bounty. Is there weight in this objection? If some think

the grant ought to be made, as an exercise of judicious and well-deserved bounty, does it weaken that ground that others think it founded in strict right, and that we cannot refuse it without manifest and palpable injustice? Or is it strange that those who feel the legal justice of the claim should address to those who do not feel it considerations of a different character, but fit to have weight, and which they hope may have weight? Nothing is more plain and natural than the course which this application has taken. The applicants themselves have placed it on the ground of equity and law. They advert to the resolve of 1780, to the commutation of 1783, and to the mode of funding the certificates. They stand on their contract. This is perfectly natural. On that basis they can present the argument themselves. Of what is required by justice and equity, they may reason, even in their own case. But when the application is placed on different grounds; when personal merit is to be urged as the foundation of a just and economical bounty; when services are to be mentioned, privations recounted, pains enumerated, and wounds and scars referred to, the discussion necessarily devolves upon others. In all that we have seen from these officers in the various papers presented by them, it cannot but be obvious to every one how little is said of personal merit, and how exclusively they confine themselves to what they think their rights under the contract.

I must confess, Sir, that principles of equity, which appear to me as plain as the sun, are urged by the memorialists themselves with great caution, and much qualification. They advance their claim of right without extravagance or overstraining; and they submit to it the unimpassioned sense of justice of the Senate.

For myself, I am free to say, that, if it were a case between individual and individual, I think the officers would be entitled to relief in a court of equity. I may be mistaken, but such is my opinion. My reasons are, that I do not think they had a fair option in regard to the commutation of half-pay. I do not think it was fairly in their power to accept or reject that offer The condition they were in, and the situation of the country, compelled them to submit to whatever was proposed. In the next place, it seems to me too evident to be denied, that the five years' full pay was never effectually received by them. A

formal compliance with the terms of the contract, not a real compliance, is at most all that ever took place. For these reasons, I think, in an individual case, law and equity would reform the settlement. The conscience of chancery would deal with this case as with other cases of hard bargains; of advantages obtained by means of inequality of situation; of acknowledged debts, compounded from necessity, or compromised without satisfaction. But although such would be my views of this claim, as between man and man, I do not place my vote for this bill on that ground. I see the consequence of admitting the claim, on the foundation of strict right. I see at once, that, on that ground, the heirs of the dead would claim, as well as the living; and that other public creditors, as well as these holders of commutation certificates, would also have whereof to complain. I know it is altogether impossible to open the accounts of the Revolution, and to think of doing justice to every body. Much of suffering there necessarily was, that can never be paid for; much of loss that can never be repaired. I do not, therefore, for myself, rest my vote on grounds leading to any such consequences. I feel constrained to say, that we cannot do, and ought not to think of doing, every thing in regard to Revolutionary debts which might be desirable, if the whole settlement were now to be gone over anew.

The honorable member from New York* has stated what I think the true ground of the bill. I regard it as an act of discreet and careful bounty, drawn forth by meritorious services and by personal necessities. I cannot argue, in this case, with the technicality of my profession; and because I do not feel able to allow the claim on the ground of mere right, I am not willing, for that reason, to nonsuit the petitioners, as not having made out their case. Suppose we admit, as I do, that, on the ground of mere right, it would not be safe to allow it; or, suppose that to be admitted for which others contend, that there is in the case no strict right upon which under any circumstances, the claim could stand; still it does not follow that there is no reasonable and proper foundation for it, or that it ought not to be granted. If it be not founded on strict right, it is not to be regarded as being, for that reason alone, an undeserved gratuity,

* Mr. Van Buren

or the effusion of mere good-will. If that which is granted be not always granted on the ground of absolute right, it does not follow that it is granted merely from an arbitrary preference, or capricious beneficence. In most cases of this sort, mixed considerations prevail, and ought to prevail. Some consideration is due to the claim of right; much to that of merit and service; and more to that of personal necessity. If I knew that all the persons to be benefited by this bill were in circumstances of comfort and competency, I should not support it. But this I know to be otherwise. I cannot dwell with propriety or delicacy on this part of the case; but I feel its force, and I yield to it. A single instance of affluence, or a few cases where want does not tread close on those who are themselves treading close on the borders of the grave, does not affect the general propriety and necessity of the measure. I would not draw this reason for the bill into too much prominence. We all know it exists; and we may, I think, safely act upon it, without so discussing it as to wound, in old, but sensitive and still throbbing bosoms, feelings which education inspired, the habits of military life cherished, and a just self-respect is still desirous to entertain. I confess I meet this claim, not only with a desire to do something in favor of these officers, but to do it in a manner indicative, not only of decorum, but of deep respect, — that respect which years, age, public service, patriotism, and broken fortune, command to spring up in every manly breast.

It is, then, Sir, a mixed claim of faith and public gratitude, of justice and honorable bounty, of merit and benevolence. It stands on the same foundation as that grant, which no one regrets, of which all are proud, made to the illustrious foreigner, who showed himself so early, and has proved himself so constantly and zealously, a friend to our country.

Then, again, it is objected, that the militia have a claim upon us; that they fought at the side of the regular soldiers, and ought to share in the country's remembrance. But it is known to be impossible to carry the measure to such an extent as to embrace the militia; and it is plain, too, that the cases are different. The bill, as I have already said, confines itself to those who served not occasionally, not temporarily, but permanently; who allowed themselves to be counted on as men who were to see the contest through, last as long as it might; and who have

made the phrase "'listing during the war" a proverbial expression, signifying unalterable devotion to our cause, through good fortune and ill fortune, till it reaches its close. This is a plain distinction; and although, perhaps, I might wish to do more, I see good ground to stop here for the present, if we must stop anywhere. The militia who fought at Concord, at Lexington, and at Bunker's Hill, have been alluded to, in the course of this debate, in terms of well-deserved praise. Be assured, Sir, there could with difficulty be found a man who drew his sword, or carried his musket, at Concord, at Lexington, or Bunker's Hill, who would wish you to reject this bill. They might ask you to do more, but never to refrain from doing this. Would to God they were assembled here, and had the fate of the bill in their own hands! Would to God the question of its passage were to be put to them! They would affirm it, with a unity of acclamation that would rend the roof of the Capitol.

I support the measure, then, Mr. President, because I think it a proper and judicious exercise of well-merited national bounty. I think, too, the general sentiment of my own constituents, and of the country, is in favor of it. I believe the member from North Carolina himself admitted, that an increasing desire that something should be done for the Revolutionary officers manifested itself in the community. The bill will make no immediate or great draught on the treasury. It will not derange the finances. If I had supposed that the state of the treasury would have been urged against the passage of this bill, I should not have voted for the Delaware breakwater, because that might have been commenced next year; nor for the whole of the sums which have been granted for fortifications; for their advancement with a little more or a little less of rapidity is not of the first necessity. But the present case is urgent. What we do should be done quickly.

Mr. President, allow me to repeat, that neither the subject nor the occasion is an ordinary one. Our own fellow-citizens do not so consider it; the world will not so regard it. A few deserving soldiers are before us, who served their country faithfully through a seven years' war. That war was a civil war. It was commenced on principle, and sustained by every sacrifice, on the great ground of civil liberty. They fought bravely, and bled freely. The cause succeeded, and the country triumphed. But

the condition of things did not allow that country, sensible as it was to their services and merits, to do them the full justice which it desired. It could not entirely fulfil its engagements. The army was to be disbanded; but it was unpaid. It was to lay down its own power; but there was no government with adequate power to perform what had been promised to it. In this critical moment, what is its conduct? Does it disgrace its high character? Is temptation able to seduce it? Does it speak of righting itself? Does it undertake to redress its own wrongs by its own sword? Does it lose its patriotism in its deep sense of injury and injustice? Does military ambition cause its integrity to swerve? Far, far otherwise.

It had faithfully served and saved the country; and to that country it now referred, with unhesitating confidence, its claim and its complaints. It laid down its arms with alacrity; it mingled itself with the mass of the community; and it waited till, in better times, and under a new government, its services might be rewarded, and the promises made to it fulfilled. Sir, this example is worth more, far more, to the cause of civil liberty, than this bill will cost us. We can hardly recur to it too often, or dwell on it too much, for the honor of our country and of its defenders. Allow me to say, again, that meritorious service in civil war is worthy of peculiar consideration; not only because there is, in such wars, usually less power to restrain irregularities, but because, also, they expose all prominent actors in them to different kinds of danger. It is rebellion as well as war. Those who engage in it must look, not only to the dangers of the field, but to confiscation also, and attainder, and ignominious death. With no efficient and settled government, either to sustain or to control them, and with every sort of danger before them, it is great merit to have conducted themselves with fidelity to the country, under every discouragement on the one hand, and with unconquerable bravery towards the common enemy on the other. Such, Sir, was the conduct of the officers and soldiers of the Revolutionary army.

I would not, and do not, underrate the services or the sufferings of others. I know well, that in the Revolutionary contest all made sacrifices, and all endured sufferings; as well those who paid for service, as those who performed it. I know that, in the records of all the little municipalities of New England, abundant

proof exists of the zeal with which the cause was espoused, and the sacrifices with which it was cheerfully maintained. I have often there read, with absolute astonishment, of the taxes, the contributions, the heavy subscriptions, sometimes provided for by disposing of the absolute necessaries of life, by which enlistments were procured, and food and clothing furnished. It would be, Sir, to these same municipalities, to these same little patriotic councils of Revolutionary times, that I should now look, with most assured confidence, for a hearty support of what this bill proposes. There, the scale of Revolutionary merit stands high. There are still those living who speak of the 19th of April, and the 17th of June, without thinking it necessary to add the year. These men, one and all, would rejoice to find that those who stood by the country bravely, through the doubtful and perilous struggle which conducted it to independence and glory, had not been forgotten in the decline and close of life.

The objects, then, Sir, of the proposed bounty, are most worthy and deserving objects. The services which they rendered were in the highest degree useful and important. The country to which they rendered them is great and prosperous. They have lived to see it glorious; let them not live to see it unkind. For me, I can give them but my vote and my prayers; and I give them both with my whole heart.

SECOND SPEECH ON THE TARIFF.*

Mr. President, — This subject is surrounded with embarrassments on all sides. Of itself, however wisely or temperately treated, it is full of difficulties; and these difficulties have not been diminished by the particular frame of this bill, nor by the manner hitherto pursued of proceeding with it. A diversity of interests exists, or is supposed to exist, in different parts of the country; this is one source of difficulty. Different opinions are entertained as to the constitutional power of Congress; this is another. And then, again, different members of the Senate have instructions which they feel bound to obey, and which clash with one another. We have this morning seen an honorable member from New York, an important motion being under consideration, lay his instructions on the table, and point to them as his power of attorney, and as containing the directions for his vote.

Those who intend to oppose this bill, under all circumstances, and in any or all forms, care not how objectionable it now is, or how bad it may be made. Others, finding their own leading objects satisfactorily secured by it, naturally enough press forward, without staying to consider deliberately how injuriously other interests may be affected. All these causes create embarrassments, and inspire just fears that a wise and useful result is hardly to be expected. There seems a strange disposition to run the hazard of extremes; and to forget that, in cases of this kind, measure, proportion, and degree are objects of inquiry, and the true rules of judgment. I have not had the slightest wish

* Speech delivered in the Senate of the United States, on the 9th of May, 1828, on the Tariff Bill.

to discuss the measure; not believing that, in the present state of things, any good could be done by me in that way. But the frequent declaration that this was altogether a New England measure, a bill for securing a monopoly to the capitalists of the North, and other expressions of a similar nature, have induced me to address the Senate on the subject.

New England, Sir, has not been a leader in this policy. On the contrary, she held back herself and tried to hold others back from it, from the adoption of the Constitution to 1824. Up to 1824, she was accused of sinister and selfish designs, *because she discountenanced the progress of this policy.* It was laid to her charge then, that, having established her manufactures herself, she wished that others should not have the power of rivalling her, and for that reason opposed all legislative encouragement. Under this angry denunciation against her, the act of 1824 passed. Now, the imputation is precisely of an opposite character. The present measure is pronounced to be exclusively for the benefit of New England; to be brought forward by her agency, and designed to gratify the cupidity of the proprietors of her wealthy establishments.

Both charges, Sir, are equally without the slightest foundation. The opinion of New England up to 1824 was founded in the conviction that, on the whole, it was wisest and best, both for herself and others, that manufactures should make haste slowly. She felt a reluctance to trust great interests on the foundation of government patronage; for who could tell how long such patronage would last, or with what steadiness, skill, or perseverance it would continue to be granted? It is now nearly fifteen years since, among the first things which I ever ventured to say here, I expressed a serious doubt whether this government was fitted, by its construction, to administer aid and protection to particular pursuits; whether, having called such pursuits into being by indications of its favor, it would not afterwards desert them, should troubles come upon them, and leave them to their fate. Whether this prediction, the result, certainly, of chance, and not of sagacity, is about to be fulfilled, remains to be seen.

At the same time it is true, that, from the very first commencement of the government, those who have administered its concerns have held a tone of encouragement and invitation towards

those who should embark in manufactures. All the Presidents, I believe without exception, have concurred in this general sentiment; and the very first act of Congress laying duties on imports adopted the then unusual expedient of a preamble, apparently for little other purpose than that of declaring that the duties which it imposed were laid for the encouragement and protection of manufactures. When, at the commencement of the late war, duties were doubled, we were told that we should find a mitigation of the weight of taxation in the new aid and succor which would be thus afforded to our own manufacturing labor. Like arguments were urged, and prevailed, but not by the aid of New England votes, when the tariff was afterwards arranged, at the close of the war in 1816. Finally, after a whole winter's deliberation, the act of 1824 received the sanction of both houses of Congress, and settled the policy of the country. What, then, was New England to do? She was fitted for manufacturing operations, by the amount and character of her population, by her capital, by the vigor and energy of her free labor, by the skill, economy, enterprise, and perseverance of her people. I repeat, What was she under these circumstances to do? A great and prosperous rival in her near neighborhood, threatening to draw from her a part, perhaps a great part, of her foreign commerce; was she to use, or to neglect, those other means of seeking her own prosperity which belonged to her character and her condition? Was she to hold out for ever against the course of the government, and see herself losing on one side, and yet make no effort to sustain herself on the other? No, Sir. Nothing was left to New England, after the act of 1824, but to conform herself to the will of others. Nothing was left to her, but to consider that the government had fixed and determined its own policy; and that policy was *protection.*

New England, poor in some respects, in others is as wealthy as her neighbors. Her soil would be held in low estimation by those who are acquainted with the valley of the Mississippi and the fertile plains of the South. But in industry, in habits of labor, skill, and in accumulated capital, the fruit of two centuries of industry, she may be said to be rich. After this final declaration, this solemn promulgation of the policy of the government, I again ask, What was she to do? Was she to deny herself the use of her advantages, natural and acquired? Was she to con-

tent herself with useless regrets? Was she longer to resist what she could no longer prevent? Or was she, rather, to adapt her acts to her condition; and, seeing the policy of the government thus settled and fixed, to accommodate to it as well as she could her own pursuits and her own industry? Every man will see that she had no option. Every man will confess that there remained for her but one course. She not only saw this herself, but had all along foreseen, that, if the system of protecting manufactures should be adopted, she must go largely into them. I believe, Sir, almost every man from New England who voted against the law of 1824 declared that, if, notwithstanding his opposition to that law, it should still pass, there would be no alternative but to consider the course and policy of the government as then settled and fixed, and to act accordingly. The law did pass; and a vast increase of investment in manufacturing establishments was the consequence. Those who made such investments probably entertained not the slighest doubt that as much as was promised would be effectually granted; and that if, owing to any unforeseen occurrence or untoward event, the benefit designed by the law to any branch of manufactures should not be realized, it would furnish a fair case for the consideration of government. Certainly they could not expect, after what had passed, that interests of great magnitude would be left at the mercy of the very first change of circumstances which might occur.

As a general remark, it may be said, that the interests concerned in the act of 1824 did not complain of their condition under it, excepting only those connected with the woollen manufactures. These did complain, not so much of the act itself as of a new state of circumstances, unforeseen when the law passed, but which had now arisen to thwart its beneficial operations as to them, although in one respect, perhaps, the law itself was thought to be unwisely framed.

Three causes have been generally stated as having produced the disappointment experienced by the manufacturers of wool under the law of 1824.

First, it is alleged that the price of the raw material has been raised too high by the act itself. This point had been discussed at the time, and although opinions varied, the result, so far as it depended on this part of the case, though it may be

said to have been unexpected, was certainly not entirely unforeseen.*

But, secondly, the manufacturers imputed their disappointment to a reduction of the price of wool in England, which took place just about the date of the law of 1824. This reduction was produced by lowering the duty on imported wool from sixpence sterling to one penny sterling per pound. The effect of this is obvious enough; but in order to see the real extent of the reduction, it may be convenient to state the matter more particularly.

The meaning of our law was doubtless to give the American manufacturer an *advantage* over his English competitors. *Protection* must mean this, or it means nothing. The English manufacturer having certain advantages on his side, such as the lower price of labor and the lower interest of money, the object of our law was to counteract these advantages by creating others, in behalf of the American manufacturer. Therefore, to see what was necessary to be done in order that the American manufacturer might sustain the competition, a comparison of the respective advantages and disadvantages was to be made. In this view the very first element to be considered was, what is the cost of the raw material to each party. On this the whole must materially depend. Now when the law of 1824 passed, the English manufacturer paid a duty of sixpence sterling per pound on imported wool. But in a very few days afterwards, this duty was reduced by Parliament from sixpence to a penny. A reduction of five pence per pound in the price of wool was estimated in Parliament to be equal to a reduction of twenty-six per cent. *ad valorem* on all imported wool; and this reduction, it is obvious, had its effect on the price of home-produced wool also. Almost, then, at the very moment that the framers of the act of 1824 were raising the price of the raw material here, as that act did raise it, it was lowered in England by the very great reduction of twenty-six per cent. Of course, this changed the whole basis of the calculation. It wrought a complete change in the relative advantages and disadvantages of the English and American competitors, and threw the preponderance of advantage most decidedly on the side of the English.

* See above, p. 135.

If the American manufacturer had not vastly too great a preference before this reduction took place, it is clear he had too little afterwards.

In a paper which has been presented to the Senate, and often referred to, — a paper distinguished for the ability and clearness with which it enforces general principles, — the Boston Report, it is clearly proved (what, indeed, is sufficiently obvious from the mere comparison of dates) that the British government did not reduce its duty on wool *because* of our act of 1824. Certainly this is true; but the effect of that reduction on our manufactures was the same precisely as if the British act had been designed to operate against them, and for no other purpose. I think it cannot be doubted that our law of 1824, and the reduction of the wool duty in England, taken together, left our manufactures in a worse condition than they were before. If there was any reasonable ground, therefore, for passing the law of 1824, there is now the same ground for some other measure; and this ground, too, is strengthened by the consideration of the hopes excited, the enterprises undertaken, and the capital invested, in consequence of that law.

In the last place, it was alleged by the manufacturers that they suffered from the mode of collecting the duties on woollen fabrics at the custom-houses. These duties are *ad valorem* duties. Such duties, from the commencement of the government, have been estimated by reference to the invoice, as fixing the value at the place whence imported. When not suspected to be false or fraudulent, the *invoice* is the regular proof of value. Originally this was a tolerably safe mode of proceeding. While the importation was mainly in the hands of American merchants, the invoice would of course, if not false or fraudulent, express the terms and the price of an actual purchase and sale. But an invoice is not necessarily an instrument expressing the sale of goods, and their prices. If there be but a list or catalogue, with prices stated by way of estimate, it is still an invoice, and within the law. Now the suggestion is, that the English manufacturer, in making out an invoice, in which prices are thus stated by himself in the way of estimate merely, is able to obtain an important advantage over the American merchant who purchases in the same market, and whose invoice states, consequently, the actual prices, on the sale. In proof of this

suggestion, it is alleged that, in the largest importing city in the Union, a very great proportion, some say nearly all, of the woollen fabrics are imported on foreign account. The various papers which have come before us, praying for a tax on auction sales, aver that the invoice of the foreign importer is generally much lower than that of the American importer; and that, in consequence of this and of the practice of sales at auction, the American merchant must be driven out of the trade. I cannot answer for the entire accuracy of these statements, but I have no doubt there is something of truth in them. The main facts have been often stated, and I have neither seen nor heard a denial of them.

Is it true, then, that nearly the whole importation of woollens is, in the largest importing city, in the hands of foreigners? Is it true, as stated, that the invoices of such foreign importers are generally found to be lower than those of the American importer? If these things be so, it will be admitted that there is reason to believe that undervaluations do take place, and that some corrective for the evil should be administered. I am glad to see that the American merchants themselves begin to bestow attention upon a subject, as interesting to them as it is to the manufacturers.

Under this state of things, Sir, the law of the last session was proposed. It was confined, as I thought properly, to wool and woollens. It took up the great and leading subject of complaint, and nothing else. It was urged, indeed, against that bill, that, although much had been said of frauds at the custom-house, no provision was made in it for the prevention of such frauds. That is a mistake. The general frame of the bill was such, that, if skilfully drawn and adapted to its purpose, its tendency to prevent such frauds would be manifest. By the fixing of prices at successive points of graduation, or *minimums*, as they are called, the power of evading duties by undervaluations would be most materially restrained. If these points, indeed, were sufficiently distant, it is obvious the duty would assume something of the certainty and precision of a specific duty. But this bill failed, and Congress adjourned in March, last year, leaving the subject where it had found it.

The complaints which had given rise to the bill continued; and in the course of the summer a meeting of the wool-growers and wool-manufacturers was held in Pennsylvania, at which

a petition to Congress was agreed upon. I do not feel it necessary, on behalf of the citizens of Massachusetts, to disclaim a participation in that meeting. Persons of much worth and respectability attended it from Massachusetts, and its proceedings and results manifested, I think, a degree of temper and moderation highly creditable to those who composed it.

But while the bill of last year was confined to that which alone had been a subject of complaint, the bill now before us is of a very different description. It proposes to raise duties on various other articles besides wool and woollens. It contains some provisions which bear with unnecessary severity on the whole community; others which affect, with peculiar hardship, particular interests; while both of them benefit nobody and nothing but the treasury. It contains provisions which, with whatever motive put into it, it is confessed are now kept in for the very purpose of destroying the bill altogether; or with the intent to compel those who expect to derive benefit, to feel smart from it also. Probably such a motive of action has not often been avowed.

The wool manufacturers think they have made out a case for the interposition of Congress. They happen to live principally at the North and East; and in a bill professing to be for their relief, other provisions are found, which are supposed (and supported *because* they are supposed) to be such as will press with peculiar hardship on that quarter of the country. Sir, what can be expected, but evil, when a temper like this prevails? How can such a hostile, retaliatory legislation be reconciled to common justice, or common prudence? Nay, Sir, this rule of action seems carried still farther. Not only are clauses found, and continued in the bill, which oppress particular interests, but taxes are laid also, which will be severely felt by the whole Union; and this, too, with the same design, and for the same end before mentioned, of causing the smart of the bill to be felt. Of this description is the molasses tax; a tax, in my opinion, absurd and preposterous, in relation to any object of protection, needlessly oppressive to the whole community, and beneficial nowhere on earth but at the treasury. And yet here it is, and here it is kept, under an idea, conceived in ignorance and cherished for a short-lived triumph, that New England will be deterred by this tax from protecting her extensive woollen manufactures; or

if not, that the authors of this policy may at least have the pleasure, the high pleasure, of perceiving that she feels the ill effects of this part of the bill.

Sir, let us look for a moment at this tax. The molasses imported into the United States amounts to thirteen millions of gallons annually. Of this quantity, not more than three millions are distilled; the remaining ten millions being consumed, as an article of wholesome food. The proposed tax is not to be laid for revenue. That is not pretended. It was not introduced for the benefit of the sugar-planters. They are contented with their present condition, and have applied for nothing. What, then, was the object? Sir, the original professed object was to increase, by this new duty on molasses, the consumption of spirits distilled from grain. This, I say, was the object originally professed. But in this point of view the measure appears to me to be preposterous. It is monstrous, and out of all proportion and relation of means to ends. It proposes to double the duty on the ten millions of gallons of molasses which are consumed for food, in order that it may likewise double the duty on the three millions which are distilled into spirits; and all this for the contingent and doubtful purpose of augmenting the consumption of spirits distilled from grain. I say contingent and doubtful purpose, because I do not believe any such effect will be produced. I do not think a hundred gallons more of spirits distilled from grain will find a market in consequence of this tax on molasses. The debate, here and elsewhere, has shown that, I think, clearly. But suppose some slight effect of that kind should be produced, is it so desirable an object as that it should be sought by such means? Shall we tax food to encourage intemperance? Shall we raise the price of a wholesome article of sustenance, of daily consumption, especially among the poorer classes, in order that we may enjoy a mere chance of causing these same classes to use more of our home-made ardent spirits?

Sir, the bare statement of this question puts it beyond the reach of all argument. No man will seriously undertake the defence of such a tax. It is better, much more candid certainly, to admit, as has been admitted, that, obnoxious as it is and abominable as it is, it is kept in the bill with a special view to its effects on New England votes and New England interests.

The bill also takes away all the drawback allowed by existing laws on the exportation of spirits distilled from molasses; and this, it is supposed, and truly supposed, will injuriously affect New England. It will have this effect to a considerable degree; for the exportation of such spirits is a part of her trade, and, though not great in amount, it is a part which mingles usefully with the exportation of other articles, assists to make out an assorted cargo, and finds a market in the North of Europe, the Mediterranean, and in South America. This exportation the bill proposes entirely to destroy.

The increased duty on molasses, while it thus needlessly and wantonly enhances the price to the consumer, may affect also, in a greater or less degree, the importation of that article; and be thus injurious to the commerce of the country. The importation of molasses, in exchange for lumber, provisions, and other articles of our own production, is one of the largest portions of our West India trade, — a trade, it may be added, though of small profit, yet of short voyages, suited to small capitals, employing many hands and much navigation, and the earliest and oldest branch of our foreign commerce. That portion of this trade which we now enjoy is conducted on the freest and most liberal principles. The exports which sustain it are from the East, the South, and the West; every part of the country having thus an interest in its continuance and extension. A market for these exports is of infinitely more importance to any of these portions of the country, than all the benefit to be expected from the supposed increased consumption of spirits distilled from grain.

Yet, Sir, this tax is to be kept in the bill, that New England may be made *to feel*. Gentlemen who hold it to be wholly unconstitutional to lay any tax whatever for the purposes intended by this bill, cordially vote for this tax. An honorable gentleman from Maryland* calls the whole bill a "bill of abominations." This tax, he agrees, is one of its abominations, yet he votes for it. Both the gentlemen from North Carolina have signified their dissatisfaction with the bill, yet they have both voted to double the tax on molasses. Sir, do gentlemen flatter themselves that this course of policy can answer their purposes?

* Mr. Smith.

Do they not perceive that such a mode of proceeding, with a view to such avowed objects, must waken a spirit that shall treat taunt with scorn and bid menace defiance? Do they not know (if they do not, it is time they did) that a policy like this, avowed with such self-satisfaction, persisted in with a delight which should only accompany the discovery of some new and wonderful improvement in legislation, will compel every New England man to feel that he is degraded and debased if he does not resist it?

Sir, gentlemen mistake us; they greatly mistake us. To those who propose to conduct the affairs of government, and to enact laws on such principles as these and for such objects as these, New England, be assured, will exhibit, not submission, but resistance; not humiliation, but disdain. Against her, depend on it, nothing will be gained by intimidation. If you propose to suffer yourselves in order that she may be made to suffer also, she will bid you come on; she will meet challenge with challenge; she will invite you to do your worst, and your best, and to see who will hold out longest. She has offered you every one of her votes in the Senate to strike out this tax on molasses. You have refused to join her, and to strike it out. With the aid of the votes of any one Southern State, for example, of North Carolina, it could have been struck out. But North Carolina has refused her votes for this purpose. She has voted to keep the tax in, and to keep it in at the highest rate. And yet, Sir, North Carolina, whatever she may think of it, is fully as much interested in this tax as Massachusetts. I think, indeed, she is more interested, and that she will feel it more heavily and sorely. She is herself a great consumer of the article, throughout all her classes of population. This increase of the duty will levy on her citizens a new tax of fifty thousand dollars a year, or more; and yet her representatives on this floor support the tax, although they have so often told us that her people are now poor, and already borne down with taxes. North Carolina will feel this tax also in her trade, for what foreign commerce has she more useful to her than the West India market for her provisions and lumber? And yet the gentlemen from North Carolina insist on keeping this tax in the bill. Let them not, then, complain. Let them not hereafter call it the work of others. It is their own work. Let them not lay it to the manufacturers.

The manufacturers have had nothing to do with it. Let them not lay it to the wool-growers. The wool-growers have had nothing to do with it. Let them not lay it to New England. New England has done nothing but oppose it, and ask them to oppose it also. No, Sir; let them take it to themselves. Let them enjoy the fruit of their own doings. Let them assign their motives for thus taxing their own constituents, and abide their judgment; but do not let them flatter themselves that New England cannot pay a molasses tax as long as North Carolina chooses that such a tax shall be paid.

Sir, I am sure there is nobody here envious of the prosperity of New England, or who would wish to see it destroyed. But if there be such anywhere, I cannot cheer them by holding out the hope of a speedy accomplishment of their wishes. The prosperity of New England, like that of other parts of the country, may, doubtless, be affected injuriously by unwise or unjust laws. It may be impaired, especially, by an unsteady and shifting policy, which fosters particular objects to-day, and abandons them to-morrow. She may advance faster, or slower; but the propelling principle, be assured, is in her, deep, fixed, and active. Her course is onward and forward. The great powers of free labor, of moral habits, of general education, of good institutions, of skill, enterprise, and perseverance, are all working with her, and for her; and on the small surface which her population covers, she is destined, I think, to exhibit striking results of the operation of these potent causes, in whatever constitutes the happiness or the ornament of human society.

Mr. President, this tax on molasses will benefit the treasury, though it will benefit nobody else. Our finances will, at least, be improved by it. I assure the gentlemen, we will endeavor to use the funds thus to be raised properly and wisely, and to the public advantage. We have already passed a bill for the Delaware breakwater; another is before us, for the improvement of several of our harbors; the Chesapeake and Ohio Canal bill has this moment been brought into the Senate; and next session we hope to bring forward the breakwater at Nantucket. These appropriations, Sir, will require pretty ample means; it will be convenient to have a well-supplied treasury; and I state for the especial consolation of the honorable gentlemen from North Carolina, that so long as they choose to compel their constit-

uents, and my constituents, to pay a molasses tax, the proceeds thereof shall be appropriated, as far as I am concerned, to valuable national objects, in useful and necessary works of internal improvements.

Mr. President, in what I have now said, I have but followed where others have led, and compelled me to follow. I have but exhibited to gentlemen the necessary consequences of their own course of proceeding. But this manner of passing laws is wholly against my own judgment, and repugnant to all my feelings. And I would, even now, once more solicit gentlemen to consider whether a different course would not be more worthy of the Senate, and more useful to the country. Why should we not act upon this bill, article by article, judge fairly of each, retain what a majority approves, and reject the rest? If it be, as the gentleman from Maryland called it, "a bill of abominations," why not strike out as many of the abominations as we can? Extreme measures cannot tend to good. They must produce mischief. If a proper and moderate bill in regard to wool and woollens had passed last year, we should not now be in our present situation. If such a bill, extended perhaps to a few other articles, if necessity so required, had been prepared and recommended at this session, much both of excitement and of evil would have been avoided.

Nevertheless, Sir, it is for gentlemen to judge for themselves. If, when the wool manufacturers think they have a fair right to call on Congress to carry into effect what was intended for them by the law of 1824, and when there is manifested some disposition to comply with what they thus request, the benefit cannot be granted in any other manner than by inserting it in a sort of bill of pains and penalties, a "bill of abominations," it is not for me to attempt to reason down what has not been reasoned up; but I must content myself with admonishing gentlemen that their policy is destined, in all probability, to terminate in their own sore disappointment.

I advert once more, Sir, to the subject of wool and woollens, for the purpose of showing that, even in respect to that part of the bill, the interest mainly protected is not that of the manufacturers. On the contrary, it is that of the wool-growers. The wool-grower is vastly more benefited than the manufacturer. The interest of the manufacturer is treated as secondary and

subordinate, throughout the bill. Just so much, and no more, is done for him, as is supposed necessary to enable him to purchase and manufacture the wool. The agricultural interest, the farming interest, the interest of the sheep-owner, is the great object which the bill is calculated to benefit, and which it will benefit, if the manufacturer can be kept alive. A comparison of existing duties with those proposed on the wool and on the cloth, will show how this part of the case stands.

At present, a duty of thirty per cent. *ad valorem* is laid on all wool costing ten cents per pound, or upwards; and a duty of fifteen per cent. on all wool under that price.

The present bill proposes a specific duty of four cents per pound, and also an *ad valorem* duty of fifty per cent. on all wool of every description.

The result of the combination of these two duties is, that wool fit for making good cloths, and costing from thirty to forty cents per pound in the foreign market, will pay a duty at least equal to sixty per cent. *ad valorem*. And wool costing less than ten cents in the foreign market will pay a duty, on the average, of a hundred per cent. *ad valorem*.

Now, Sir, these heavy duties are laid for the wool-grower. They are designed to give a spring to agriculture, by fostering one of its most important products.

But let us see what is done for the manufacturer, in order to enable him to manufacture the raw material, at prices so much enhanced.

As the bill passed the House of Representatives, the advance of duties on cloths is supposed to have been not more than three per cent. on the minimum points. Taking the amount of duty to be now thirty-seven per cent. *ad valorem* on cloths, this bill, as it came to us, proposed, if that supposition be true, only to carry it up to forty. Amendments here adopted have enhanced this duty, and are understood to have carried it up to a duty of forty-five or perhaps fifty per cent. *ad valorem*. Taking it at the highest, the duty on the cloth is raised *thirteen* per cent.; while that on wool is raised in some instances *thirty*, and in some instances *eighty-five* per cent.; that is, in one case from thirty to sixty, and in the other from fifteen to a hundred. Now the calculation is said to be true which supposes that a duty of thirty per cent. on the raw material enhances by fifteen per cent. the

cost of producing the cloth; the raw material being estimated generally to be equal to half the expense of the fabric. So that, while by this bill the manufacturer gains *thirteen* per cent. on the cloth, he would appear to lose *fifteen* per cent. on the same cloth by the increase in the price of the wool. And this would not only appear to be true, but would, I suppose, be actually true, were it not that the market may be open to the manufacturer, under this bill, for such cloths as may be furnished at prices intermediate between the graduated prices established by the bill.

[For example, few or no foreign cloths, it is supposed, costing more than fifty cents a yard and less than a dollar, will be imported; therefore, American cloths worth more than fifty cents, and less than a dollar, will find a market. So of the intervals, or intermediate spaces, between the other statute prices. In this mode it may be hoped that the manufacturers may be sustained, and rendered able to carry on the work of converting the raw material, the agricultural product of the country, into an article necessary and fit for use. This statement, I think, sufficiently shows that no further benefit or advantage is intended for them, than such as shall barely enable them to accomplish that purpose; and that the object to which all others have been made to yield is the advantage of agriculture.]

And yet, Sir, it is on occasion of a bill thus framed, that a loud and ceaseless cry has been raised against what is called the cupidity, the avarice, the monopolizing spirit, of New England manufacturers! This is one of the main "abominations of the bill"; to remedy which it is proposed to keep in the other abominations. Under the prospect of advantage held out by the law of 1824, men have ventured their fortunes, and their means of subsistence for themselves and families, in woollen manufactures. They have ventured investments in objects requiring a large outlay of capital; in mills, houses, water-works, and expensive machinery. Events have occurred, blighting their prospects and withering their hopes, — events which have deprived them of that degree of succor which the legislature manifestly intended. They come here asking for relief against an unforeseen occurrence, for remedy against that which Congress, if it had foreseen, would have prevented; and they are told, that what they ask is an abomination! They say that an interest

important to them, and important to the country, and principally called into existence by the government itself, has received a severe shock, under which it must sink, if the government will not, by reasonable means, endeavor to preserve what it has created. And they are met with a volley of hard names, a tirade of reproaches, and a loud cry against capitalists, speculators, and stock-jobbers! For one, I think them hardly treated; I think, and from the beginning have thought, their claim to be a fair one. With how much soever of undue haste, or even of credulity, they may be thought to have embarked in these pursuits, under the hopes held out by government, I do not feel it to be just that they should be abandoned to their fate on the first adverse change of circumstances; although I have always seen, and now see, how difficult, perhaps I should rather say how impossible, it is for Congress to act, when such changes occur, in a manner at once efficient and discreet; prompt, and yet moderate.

For these general reasons, and on these grounds, I am decidedly in favor of a measure which shall uphold and support, in behalf of the manufacturers, the law of 1824, and carry its benefits and advantages to the full extent intended. And though I am not altogether satisfied with the particular form of these enactments, I am willing to take them, in the belief that they will answer an essentially important and necessary purpose.

It is now my painful duty to take notice of another part of the bill, which I think in the highest degree objectionable and unreasonable; I mean the extraordinary augmentation of the duty on hemp. I cannot well conceive any thing more unwise or ill-judged than this appears to me to be. The duty is already thirty-five dollars per ton; and the bill proposes a progressive increase till it shall reach sixty dollars. This will be absolutely oppressive on the shipping interest, the great consumers of the article. When this duty shall have reached its maximum, it will create an annual charge of at least one hundred thousand dollars, falling not on the aggregate of the commercial interest, but on the ship-owner. It is a very unequal burden. The navigation of the country has already a hard struggle to sustain itself against foreign competition; and it is singular enough, that this interest, which is already so severely tried, which pays so much in duties on hemp, duck, and iron, and which it is now

proposed to put under new burdens, is the only interest which is subject to a direct tax by a law of Congress. The tonnage duty is such a tax. If this bill should pass in its present form, I shall think it my duty, at the earliest suitable opportunity, to bring forward a bill for the repeal of the tonnage duty. It amounts, I think, to a hundred and twenty thousand dollars a year; and its removal will be due in all justice to the ship-owner, if he is to be made subject to a new taxation on hemp and iron.

But, objectionable as this tax is, from its severe pressure on a particular interest, and that at present a depressed interest, there are still further grounds of dissatisfaction with it. It is not calculated to effect the object intended by it. If that object be the increase of the sale of the dew-rotted American hemp, the increased duty will have little tendency to produce that result; because such hemp is so much lower in price than imported hemp, that it must be already used for such purposes as it is fit for. It is said to be selling for one hundred and twenty dollars per ton; while the imported hemp commands two hundred and seventy dollars. The proposed duty, therefore, cannot materially assist the sale of American hemp of this quality and description.

But the main reason given for the increase is the encouragement of American water-rotted hemp. Doubtless, this is an important object; but I have seen nothing to satisfy me that it can be obtained by means like this. At present there is produced in the country no considerable quantity of water-rotted hemp. It is problematical, at best, whether it can be produced under any encouragement. The hemp may be grown, doubtless, in various parts of the United States, as well as in any country in the world; but the process of preparing it for use, by water-rotting, I believe to be more difficult and laborious than is generally thought among us. I incline to think, that, happily for us, labor is in too much demand, and commands too high prices, to allow this process to be carried on profitably. Other objections, also, beside the amount of labor required, may, perhaps, be found to exist, in climate, and in the effects liable to be produced on health in warm countries by the nature of the process. But whether there be foundation for these suggestions or not, the fact still is, that we do not produce the article. It cannot, at present, be had at any price. To augment the duty, therefore, on foreign hemp, can only have the effect of compelling

the consumer to pay so much more money into the treasury. The proposed increase, then, is doubly objectionable; first, because it creates a charge not to be borne equally by the whole country, but a new and heavy charge, to be borne exclusively by one particular interest; and, second, because that, of the money raised by this charge, little or none goes to accomplish the professed object, by aiding the hemp-grower; but the whole, or nearly the whole, falls into the treasury. Thus the effect will be in no way proportioned to the cause, and the advantage obtained by some not at all equal to the hardship imposed on others. While one interest will suffer much, the other interest will gain little or nothing.

I am quite willing to make a thorough and fair experiment, on the subject of water-rotted hemp; but I wish at the same time to do this in a manner that shall not oppress individuals, or particular classes. I intend, therefore, to move an amendment, which will consist in striking out so much of the bill as raises the duty on hemp higher than it is at present, and in inserting a clause, making it the duty of the navy department to purchase, for the public service, American water-rotted hemp, whenever it can be had of a suitable quality; provided it can be purchased at a rate not exceeding by more than twenty per cent. the current price of imported hemp of the same quality. If this amendment should be adopted, the ship-owner would have no reason to complain, as the price of the article would not be enhanced to him; and, at the same time, the hemp-grower who shall try the experiment will be made sure of a certain market, and a high price. The existing duty of thirty-five dollars per ton will still remain to be borne by the ship-owner. The twenty per cent. advance on the price of imported hemp will be equal to fifty dollars per ton; the aggregate will be eighty-five dollars; and this, it must be admitted, is a liberal and effective provision, and will secure every thing which can be reasonably desired by the hemp-grower in the most ample manner.

But if the bill should become a law, and go into operation in its present shape, this duty on hemp is likely to defeat its own object in another way. Very intelligent persons entertain the opinion, that the consequence of this high duty will be such, that American vessels engaged in foreign commerce will, to a

great extent, supply themselves with cordage abroad. This, of course, will diminish the consumption at home, and thus injure the hemp-grower, and at the same time the manufacturer of cordage. Again, there may be reason to fear that, as the duty is not raised on cordage manufactured abroad, such cordage may be imported in greater or less degree in the place of the unmanufactured article. Whatever view we take, therefore, of this hemp duty, it appears to me altogether objectionable.

Much has been said of the protection which the navigation of the country has received from the discriminating duties on tonnage, and the exclusive enjoyment of the coasting trade. In my opinion, neither of these measures has materially sustained the shipping interest of the United States. I do not concur in the sentiments on that point quoted from Dr. Seybert's statistical work. Dr. Seybert was an intelligent and worthy man, and compiled a valuable book; but he was engaged in public life at a time when it was more fashionable than it has since become, to ascribe efficacy to discriminating duties. The shipping interest in this country has made its way by its own enterprise. By its own vigorous exertion it spread itself over the seas, and by the same exertion it still holds its place there. It seems idle to talk of the benefit and advantage of discriminating duties, when they operate against us on one side of the ocean quite as much as they operate for us on the other. To suppose that two nations, having intercourse with each other, can secure each to itself a decided advantage in that intercourse, is little less than absurdity; and this is the absurdity of discriminating duties. Still less reason is there for the idea, that our own ship-owners hold the exclusive enjoyment of the coasting trade only by virtue of the law which prevents foreigners from sharing it. Look at the rate of freights. Look at the manner in which this coasting trade is conducted by our own vessels, and the competition which subsists between them. In a majority of instances, probably, these vessels are owned, in whole or in part, by those who navigate them. These owners are at home at one end of the voyage; and repairs and supplies are thus obtained in the cheapest and most economical manner. No foreign vessels would be able to partake in this trade, even by the aid of preferences and bounties.

The shipping interest of this country requires only an open

field, and a fair chance. Every thing else it will do for itself. But it has not a fair chance while it is so severely taxed in whatever enters into the necessary expense of building and equipment. In this respect, its rivals have advantages which may in the end prove to be decisive against us. I entreat the Senate to examine and weigh this subject, and not go on, blindly, to unknown consequences. The English ship-owner is carefully regarded by his government, and aided and succored, whenever and wherever necessary, by a sharp-sighted policy. Both he and the American ship-owner obtain their hemp from Russia. But observe the difference. The duty on hemp in England is but twenty-one dollars; here, it is proposed to make it sixty, notwithstanding its cost here is necessarily enhanced by an additional freight, proportioned to a voyage longer than that which brings it to the English consumer, by the whole breadth of the Atlantic.

Sir, I wish to invoke the Senate's attention, earnestly, to the subject; I would awaken the regard of the whole government, more and more, not only on this but on all occasions, to this great national interest; an interest which lies at the very foundation both of our commercial prosperity and our naval achievement.

FIRST SPEECH ON FOOT'S RESOLUTION.*

On the 29th of December, 1829, a resolution was moved by Mr. Foot, one of the Senators from Connecticut, which, after the addition of the last clause by amendment, stood as follows: —

"*Resolved*, That the Committee on Public Lands be instructed to inquire and report the quantity of public lands remaining unsold within each State and Territory. And whether it be expedient to limit for a certain period the sales of the public lands to such lands only as have heretofore been offered for sale and are now subject to entry at the minimum price. And, also, whether the office of Surveyor-General, and some of the land offices, may not be abolished without detriment to the public interest; or whether it be expedient to adopt measures to hasten the sales and extend more rapidly the surveys of the public lands."

On the 18th of January, Mr. Benton of Missouri addressed the Senate on the subject of this resolution. On the 19th, Mr. Hayne of South Carolina spoke at considerable length. After he had concluded, Mr. Webster rose to reply, but gave way on motion of Mr. Benton for an adjournment.

On the 20th, Mr. Webster spoke as follows: —

Nothing has been farther from my intention than to take any part in the discussion of this resolution. It proposes only an inquiry on a subject of much importance, and one in regard to which it might strike the mind of the mover and of other gentlemen that inquiry and investigation would be useful. Although I am one of those who do not perceive any particular utility in instituting the inquiry, I have, nevertheless, not seen that harm would be likely to result from adopting the resolution. Indeed, it gives no new powers, and hardly imposes any new duty on

* Delivered in the Senate of the United States, on the 20th of January, 1830.

the committee. All that the resolution proposes should be done, the committee is quite competent, without the resolution, to do by virtue of its ordinary powers. But, Sir, although I have felt quite indifferent about the passing of the resolution, yet opinions were expressed yesterday on the general subject of the public lands, and on some other subjects, by the gentleman from South Carolina, so widely different from my own, that I am not willing to let the occasion pass without some reply. If I deemed the resolution as originally proposed hardly necessary, still less do I think it either necessary or expedient to adopt it, since a second branch has been added to it to-day. By this second branch, the committee is to be instructed to inquire whether it be expedient to adopt measures to hasten the sales, and extend more rapidly the surveys of the public lands.

Now it appears, Mr. President, that, in forty years, we have sold no more than about twenty millions of acres of public lands. The annual sales do not now exceed, and never have exceeded, one million of acres. A million a year is, according to our experience, as much as the increase of population can bring into settlement. And it appears, also, that we have, at this moment, surveyed and in the market, ready for sale, two hundred and ten millions of acres, or thereabouts. All this vast mass, at this moment, lies on our hands for mere want of purchasers. Can any man, looking to the real interests of the country and the people, seriously think of inquiring whether we ought not to hasten the public surveys still faster, and to bring, still more and more rapidly, other vast quantities into the market? The truth is, that, rapidly as population has increased, the surveys have, nevertheless, outrun our wants. There are more lands than purchasers. They are now sold at low prices, and taken up as fast as the increase of people furnishes hands to take them up. It is obvious, that no artificial regulation, no forcing of sales, no giving away of the lands even, can produce any great and sudden augmentation of population. The ratio of increase, though great, has its bounds. Hands for labor are multiplied only at a certain rate. The lands cannot be settled but by settlers, nor faster than settlers can be found. A system, if now adopted, of forcing sales, at whatever prices, may have the effect of throwing large quantities into the hands of individuals, who would in this way, in time, become themselves com

petitors with the government in the sale of land. My own opinion has uniformly been, that the public lands should be offered freely, and at low prices; so as to encourage settlement and cultivation as rapidly as the increasing population of the country is competent to extend settlement and cultivation. Every actual settler should be able to buy good land, at a cheap rate; but, on the other hand, speculation by individuals on a large scale should not be encouraged, nor should the value of all lands, sold and unsold, be reduced to nothing, by throwing new and vast quantities into the market at prices merely nominal.

I now proceed, Sir, to some of the opinions expressed by the gentleman from South Carolina. Two or three topics were touched by him, in regard to which he expressed sentiments in which I do not at all concur.

In the first place, Sir, the honorable gentleman spoke of the whole course and policy of the government towards those who have purchased and settled the public lands, and seemed to think this policy wrong. He held it to have been, from the first, hard and rigorous; he was of opinion, that the United States had acted towards those who had subdued the Western wilderness in the spirit of a step-mother; that the public domain had been improperly regarded as a source of revenue; and that we had rigidly compelled payment for that which ought to have been given away. He said we ought to have imitated the example of other governments, which had acted on a much more liberal system than ours, in planting colonies. He dwelt, particularly, upon the settlement of America by colonies from Europe; and reminded us, that their governments had not exacted from those colonies payment for the soil. In reference to them, he said, it had been thought that the conquest of the wilderness was itself an equivalent for the soil, and he lamented that we had not followed that example, and pursued the same liberal course towards our own emigrants to the West.

Now, Sir, I deny, altogether, that there has been any thing harsh or severe in the policy of the government towards the new States of the West. On the contrary, I maintain that it has uniformly pursued towards those States a liberal and enlightened system, such as its own duty allowed and required, and such as their interest and welfare demanded. The government

has been no step-mother to the new States. She has not been careless of their interests, nor deaf to their requests; but from the first moment when the territories which now form those States were ceded to the Union, down to the time in which I am now speaking, it has been the invariable object of the government, to dispose of the soil according to the true spirit of the obligation under which it received it; to hasten its settlement and cultivation, as far and as fast as practicable; and to rear the new communities into new and independent States, at the earliest moment of their being able, by their numbers, to form a regular government.

I do not admit, Sir, that the analogy to which the gentleman refers us is just, or that the cases are at all similar. There is no resemblance between the cases, upon which a statesman can found an argument. The original North American colonists either fled from Europe, like our New England ancestors, to avoid persecution, or came hither at their own charges, and often at the ruin of their fortunes, as private adventurers. Generally speaking, they derived neither succor nor protection from their governments at home. Wide, indeed, is the difference between those cases and ours. From the very origin of the government, these Western lands, and the just protection of those who had settled or should settle on them, have been the leading objects in our policy, and have led to expenditures, both of blood and treasure, not inconsiderable; not, indeed, exceeding the importance of the object, and not yielded grudgingly; but yet entitled to be regarded as great, though necessary sacrifices, made for high, proper ends. The Indian title has been extinguished at the expense of many millions. Is that nothing? There is still a much more material consideration. These colonists, if we are to call them so, in passing the Alleghanies, did not pass beyond the care and protection of their own government. Wherever they went, the public arm was still stretched over them. A parental government at home was still ever mindful of their condition and their wants, and nothing was spared which a just sense of their necessities required. Is it forgotten that it was one of the most arduous duties of the government, in its earliest years, to defend the frontiers against the Northwestern Indians? Are the sufferings and misfortunes under Harmar and St. Clair not worthy to be remembered? Do the occurrences

connected with these military efforts show an unfeeling neglect of Western interests? And here, Sir, what becomes of the gentleman's analogy? What English armies accompanied our ancestors to clear the forests of a barbarous foe? What treasures of the exchequer were expended in buying up the original title to the soil? What governmental arm held its ægis over our fathers' heads, as they pioneered their way in the wilderness? Sir, it was not till General Wayne's victory, in 1794, that it could be said we had conquered the savages. It was not till that period that the government could have considered itself as having established an entire ability to protect those who should undertake the conquest of the wilderness.

And here, Sir, at the epoch of 1794, let us pause and survey the scene, as it actually existed thirty-five years ago. Let us look back and behold it. Over all that is now Ohio there then stretched one vast wilderness, unbroken except by two small spots of civilized culture, the one at Marietta and the other at Cincinnati. At these little openings, hardly each a pin's point upon the map, the arm of the frontier-man had levelled the forest and let in the sun. These little patches of earth, themselves almost overshadowed by the overhanging boughs of that wilderness which had stood and perpetuated itself, from century to century, ever since the creation, were all that had then been rendered verdant by the hand of man. In an extent of hundreds and thousands of square miles, no other surface of smiling green attested the presence of civilization. The hunter's path crossed mighty rivers, flowing in solitary grandeur, whose sources lay in remote and unknown regions of the wilderness. It struck upon the north on a vast inland sea, over which the wintry tempests raged as on the ocean; all around was bare creation. It was fresh, untouched, unbounded, magnificent wilderness.

And, Sir, what is it now? Is it imagination only, or can it possibly be fact, that presents such a change as surprises and astonishes us when we turn our eyes to what Ohio now is? Is it reality, or a dream, that, in so short a period even as thirty-five years, there has sprung up, on the same surface, an independent State with a million of people? A million of inhabitants! an amount of population greater than that of all the cantons of Switzerland; equal to one third of all the people of the United States when they undertook to accomplish their independence.

This new member of the republic has already left far behind her a majority of the old States. She is now by the side of Virginia and Pennsylvania; and in point of numbers will shortly admit no equal but New York herself. If, Sir, we may judge of measures by their results, what lessons do these facts read us upon the policy of the government? What inferences do they authorize upon the general question of kindness or unkindness? What convictions do they enforce as to the wisdom and ability, on the one hand, or the folly and incapacity, on the other, of our general administration of Western affairs? Sir, does it not require some portion of self-respect in us to imagine, that, if our light had shone on the path of government, if our wisdom could have been consulted in its measures, a more rapid advance to strength and prosperity would have been experienced? For my own part, while I am struck with wonder at the success, I also look with admiration at the wisdom and foresight which originally arranged and prescribed the system for the settlement of the public domain. Its operation has been, without a moment's interruption, to push the settlement of the Western country to the extent of our utmost means.

But, Sir, to return to the remarks of the honorable member from South Carolina. He says that Congress has sold these lands and put the money into the treasury, while other governments, acting in a more liberal spirit, gave away their lands; and that we ought also to have given ours away. I shall not stop to state an account between our revenues derived from land, and our expenditures in Indian treaties and Indian wars. But I must refer the honorable gentleman to the origin of our own title to the soil of these territories, and remind him that we received them on conditions and under trusts which would have been violated by giving the soil away. For compliance with those conditions, and the just execution of those trusts, the public faith was solemnly pledged. The public lands of the United States have been derived from four principal sources. First, cessions made to the United States by individual States, on the recommendation or request of the old Congress; secondly, the compact with Georgia, in 1802; thirdly, the purchase of Louisiana, in 1803; fourthly, the purchase of Florida, in 1819. Of the first class, the most important was the cession by Virginia of all her right and title, as well of soil as jurisdiction, to all

the territory within the limits of her charter lying to the northwest of the Ohio River. It may not be ill-timed to recur to the causes and occasions of this and the other similar grants.

When the war of the Revolution broke out, a great difference existed in different States in the proportion between people and territory. The Northern and Eastern States, with very small surfaces, contained comparatively a thick population, and there was generally within their limits no great quantity of waste lands belonging to the government, or the crown of England. On the contrary, there were in the Southern States, in Virginia and in Georgia, for example, extensive public domains, wholly unsettled, and belonging to the crown. As these possessions would necessarily fall from the crown in the event of a prosperous issue of the war, it was insisted that they ought to devolve on the United States, for the good of the whole. The war, it was argued, was undertaken and carried on at the common expense of all the colonies; its benefits, if successful, ought also to be common; and the property of the common enemy, when vanquished, ought to be regarded as the general acquisition of all. While yet the war was raging, it was contended that Congress ought to have the power to dispose of vacant and unpatented lands, commonly called crown lands, for defraying the expenses of the war, and for other public and general purposes. "Reason and justice," said the Assembly of New Jersey, in 1778, "must decide that the property which existed in the crown of Great Britain previous to the present Revolution ought now to belong to the Congress, in trust for the use and benefit of the United States. They have fought and bled for it, in proportion to their respective abilities, and therefore the reward ought not to be predilectionally distributed. Shall such States as are shut out by situation from availing themselves of the least advantage from this quarter be left to sink under an enormous debt, whilst others are enabled in a short period to replace all their expenditures from the hard earnings of the whole confederacy?"

Moved by considerations and appeals of this kind, Congress took up the subject, and in September, 1780, recommended to the several States in the Union having claims to Western territory, to make liberal cessions of a portion thereof to the United States; and on the 10th of October, 1780, Congress resolved,

that any lands so ceded, in pursuance of their preceding recommendation, should be disposed of for the common benefit of the United States; should be settled and formed into distinct republican States, to become members of the Federal Union, with the same rights of sovereignty, freedom, and independence as the other States; and that the lands should be granted, or settled, at such times, and under such regulations, as should be agreed on by Congress. Again, in September, 1783, Congress passed another resolution, setting forth the conditions on which cessions from States should be received; and in October following, Virginia made her cession, reciting the resolution, or act, of September preceding, and then transferring to the United States her title to her Northwestern territory, upon the express condition that the lands so ceded should be considered as a common fund for the use and benefit of such of the United States as had become or should become members of the confederation, Virginia inclusive, and should be faithfully and *bonâ fide* disposed of for that purpose, and for no other use or purpose whatever. The grants from other States were on similar conditions. Massachusetts and Connecticut both had claims to Western lands, and both relinquished them to the United States in the same manner. These grants were all made on three substantial conditions or trusts. First, that the ceded territories should be formed into States, and admitted in due time into the Union, with all the rights belonging to other States; secondly, that the lands should form a common fund, to be disposed of for the general benefit of all the States; and thirdly, that they should be sold and settled, at such time and in such manner as Congress should direct.

Now, Sir, it is plain that Congress never has been, and is not now, at liberty to disregard these solemn conditions. For the fulfilment of all these trusts, the public faith was, and is, fully pledged. How, then, would it have been possible for Congress, if it had been so disposed, to give away these public lands? How could it have followed the example of other governments, if there had been such, and considered the conquest of the wilderness an equivalent compensation for the soil? The States had looked to this territory, perhaps too sanguinely, as a fund out of which means were to come to defray the expenses of the war. It had been received as a fund, as a fund Congress

had bound itself to apply it. To have given it away, would have defeated all the objects which Congress and particular States had had in view in asking and obtaining the cession, and would have plainly violated the conditions which the ceding States attached to their own grants.

The gentleman admits, that the lands cannot be given away until the national debt is paid; because to a part of that debt they stand pledged. But this is not the original pledge. There is, so to speak, an earlier mortgage. Before the debt was funded, at the moment of the cession of the lands, and by the very terms of that cession, every State in the Union obtained an interest in them, as in a common fund. Congress has uniformly adhered to this condition. It has proceeded to sell the lands, and to realize as much from them as was compatible with the other trusts created by the same deeds of cession. One of these deeds of trust, as I have already said, was, that the lands should be sold and settled, at such time and in such manner as Congress shall direct. The government has always felt itself bound, in this respect, to exercise its own best judgment, and not to transfer the discretion to others. It has not felt itself at liberty to dispose of the soil, therefore, in large masses to individuals, thus leaving to them the time and manner of settlement. It had stipulated to use its own judgment. If, for instance, in order to rid itself of the trouble of forming a system for the sale of those lands, and going into detail, it had sold the whole of what is now Ohio, in one mass, to individuals or companies, it would clearly have departed from its just obligations. And who can now tell, or conjecture, how great would have been the evil of such a course? Who can say what mischiefs would have ensued, if Congress had thrown these territories into the hands of private speculation? Or who, on the other hand, can now foresee what the event would be, should the government depart from the same wise course hereafter, and, not content with such gradual absorption of the public lands as the natural growth of our population may accomplish, should force great portions of them, at nominal or very low prices, into private hands, to be sold and settled as and when such holders might think would be most for their own interests?

Hitherto, Sir, I maintain, Congress has acted wisely, and done its duty on this subject. I hope it will continue to do it. De-

parting from the original idea, so soon as it was found practicable and convenient, of selling by townships, Congress has disposed of the soil in smaller and still smaller portions, till at length it sells in parcels of no more than eighty acres; thus putting it into the power of every man in the country, however poor, but who has health and strength, to become a freeholder if he desires, not of barren acres, but of rich and fertile soil. The government has performed all the conditions of the grant. While it has regarded the public lands as a common fund, and has sought to make what reasonably could be made of them, as a source of revenue, it has also applied its best wisdom to sell and settle them, as fast and as happily as possible; and whensoever numbers would warrant it, each territory has been successively admitted into the Union, with all the rights of an independent State.

Is there then, Sir, I ask, any ground for a well-founded charge of hard dealing? for any just accusation of negligence, indifference, or parsimony, which is capable of being sustained against the government of the country in its conduct towards the new States? I think there is not.

But there was another observation of the honorable member, which, I confess, did not a little surprise me. As a reason for wishing to get rid of the public lands as soon as we could, and as we might, the honorable gentleman said he wanted no permanent sources of income. He wished to see the time when the government should not possess a shilling of permanent revenue. If he could speak a magical word, and by that word convert the whole Capitol into gold, the word should not be spoken. The administration of a fixed revenue, he said, only consolidates the government and corrupts the people! Sir, I confess I heard these sentiments uttered on this floor not without deep regret and pain.

I am aware that these and similar opinions are espoused by certain persons out of the Capitol and out of this government; but I did not expect so soon to find them here. Consolidation! — that perpetual cry both of terror and delusion, — Consolidation! Sir, when gentlemen speak of the effects of a common fund, belonging to all the States, as having a tendency to consolidation, what do they mean? Do they mean, or can they mean, any thing more than that the union of the States will be

strengthened by whatever continues or furnishes inducements to the people of the States to hold together? If they mean merely this, then, no doubt, the public lands, as well as every thing else in which we have a common interest, tend to consolidation; and to this species of consolidation every true American ought to be attached; it is neither more nor less than strengthening the Union itself. This is the sense in which the framers of the Constitution use the word *consolidation*, and in this sense I adopt and cherish it. They tell us, in the letter submitting the Constitution to the consideration of the country, that, "In all our deliberations on this subject, we kept steadily in our view that which appears to us the greatest interest of every true American, the consolidation of our Union, in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each State in the Convention to be less rigid on points of inferior magnitude than might have been otherwise expected."

This, Sir, is General Washington's consolidation. This is the true, constitutional consolidation. I wish to see no new powers drawn to the general government; but I confess I rejoice in whatever tends to strengthen the bond that unites us, and encourages the hope that our Union may be perpetual. And therefore I cannot but feel regret at the expression of such opinions as the gentleman has avowed, because I think their obvious tendency is to weaken the bond of our connection. I know that there are some persons in the part of the country from which the honorable member comes, who habitually speak of the Union in terms of indifference, or even of disparagement. The honorable member himself is not, I trust, and can never be, one of these. They significantly declare, that it is time to calculate the value of the Union; and their aim seems to be to enumerate, and to magnify, all the evils, real and imaginary, which the government under the Union produces.

The tendency of all these ideas and sentiments is obviously to bring the Union into discussion, as a mere question of present and temporary expediency; nothing more than a mere matter of profit and loss. The Union is to be preserved, while it suits local and temporary purposes to preserve it; and to be sundered whenever it shall be found to thwart such purposes.

Union, of itself, is considered by the disciples of this school as hardly a good. It is only regarded as a possible means of good; or, on the other hand, as a possible means of evil. They cherish no deep and fixed regard for it, flowing from a thorough conviction of its absolute and vital necessity to our welfare. Sir, I deprecate and deplore this tone of thinking and acting. I deem far otherwise of the union of the States; and so did the framers of the Constitution themselves. What they said, I believe; fully and sincerely believe, that the union of the States is essential to the prosperity and safety of the States. I am a unionist, and, in this sense, a national republican. I would strengthen the ties that hold us together. Far, indeed, in my wishes, very far distant be the day, when our associated and fraternal stripes shall be severed asunder, and when that happy constellation under which we have risen to so much renown shall be broken up, and sink, star after star, into obscurity and night!

Among other things, the honorable member spoke of the public debt. To that he holds the public lands pledged, and has expressed his usual earnestness for its total discharge. Sir, I have always voted for every measure for reducing the debt, since I have been in Congress. I wished it paid because it is a debt, and, so far, is a charge upon the industry of the country and the finances of the government. But, Sir, I have observed, that, whenever the subject of the public debt is introduced into the Senate, a morbid sort of fervor is manifested in regard to it, which I have been sometimes at a loss to understand. The debt is not now large, and is in a course of most rapid reduction. A few years will see it extinguished. I am not entirely able to persuade myself that it is not certain supposed incidental tendencies and effects of this debt, rather than its pressure and charge as a debt, that cause so much anxiety to get rid of it. Possibly it may be regarded as in some degree a tie, holding the different parts of the country together, by considerations of mutual interest. If this be one of its effects, the effect itself is, in my opinion, not to be lamented. Let me not be misunderstood. I would not continue the debt for the sake of any collateral or consequential advantage, such as I have mentioned. I only mean to say, that that consequence itself is not one that I regret; at the same time, that, if there are others who would or who do regret it, I differ from them.

As I have already remarked, Sir, it was one among the reasons assigned by the honorable member for his wish to be rid of the public lands altogether, that the public disposition of them, and the revenues derived from them, tend to corrupt the people. This, Sir, I confess, passes my comprehension. These lands are sold at public auction, or taken up at fixed prices, to form farms and freeholds. Whom does this corrupt? According to the system of sales, a fixed proportion is everywhere reserved, as a fund for education. Does education corrupt? Is the schoolmaster a corrupter of youth? the spelling-book, does it break down the morals of the rising generation? and the Holy Scriptures, are they fountains of corruption? Or if, in the exercise of a provident liberality, in regard to its own property as a great landed proprietor, and to high purposes of utility towards others, the government gives portions of these lands to the making of a canal, or the opening of a road, in the country where the lands themselves are situated, what alarming and overwhelming corruption follows from all this? Can there be nothing pure in government except the exercise of mere control? Can nothing be done without corruption, but the impositions of penalty and restraint? Whatever is positively beneficent, whatever is actively good, whatever spreads abroad benefits and blessings which all can see and all can feel, whatever opens channels of intercourse, augments population, enhances the value of property, and diffuses knowledge, — must all this be rejected and reprobated as a dangerous and obnoxious policy, hurrying us to the double ruin of a government, turned into despotism by the mere exercise of acts of beneficence, and of a people, corrupted, beyond hope of rescue, by the improvement of their condition?

The gentleman proceeded, Sir, to draw a frightful picture of the future. He spoke of the centuries that must elapse before all the lands could be sold, and the great hardships that the States must suffer while the United States reserve to themselves, within their limits, such large portions of soil, not liable to taxation. Sir, this is all, or mostly, imagination. If these lands were leasehold property, if they were held by the United States on rent, there would be much in the idea. But they are wild lands, held only till they can be sold; reserved no longer than till somebody will take them up, at low prices. As to their not being taxed, I would ask whether the States themselves, if they owned

them, would tax them before sale? Sir, if in any case any State can show that the policy of the United States retards her settlement, or prevents her from cultivating the lands within her limits, she shall have my vote to alter that policy. But I look upon the public lands as a public fund, and that we are no more authorized to give them away gratuitously than to give away gratuitously the money in the treasury. I am quite aware, that the sums drawn annually from the Western States make a heavy drain upon them; but that is unavoidable. For that very reason, among others, I have always been inclined to pursue towards them a kind and most liberal policy; but I am not at liberty to forget, at the same time, what is due to other States, and to the solemn engagements under which the government rests.

I come now, Mr. President, to that part of the gentleman's speech which has been the main occasion of my addressing the Senate. The East! the obnoxious, the rebuked, the always reproached East! — we have come in, Sir, on this debate, for even more than a common share of accusation and attack. If the honorable member from South Carolina was not our original accuser, he has yet recited the indictment against us with the air and tone of a public prosecutor. He has summoned us to plead on our arraignment; and he tells us we are charged with the crime of a narrow and selfish policy; of endeavoring to restrain emigration to the West, and, having that object in view, of maintaining a steady opposition to Western measures and Western interests. And the cause of all this narrow and selfish policy, the gentleman finds in the tariff; I think he called it the accursed policy of the tariff. This policy, the gentleman tells us, requires multitudes of dependent laborers, a population of paupers, and that it is to secure these at home that the East opposes whatever may induce to Western emigration. Sir, I rise to defend the East. I rise to repel, both the charge itself, and the cause assigned for it. I deny that the East has, at any time, shown an illiberal policy towards the West. I pronounce the whole accusation to be without the least foundation in any facts, existing either now or at any previous time. I deny it in the general, and I deny each and all its particulars. I deny the sum total, and I deny the detail. I deny that the East has ever manifested hostility to the West, and I deny that she has adopt-

ed any policy that would naturally have led her in such a course.

But the tariff! the tariff!! Sir, I beg to say in regard to the East, that the original policy of the tariff is not hers, whether it be wise or unwise. New England is not its author. If gentlemen will refer to the tariff of 1816, they will find that this was not carried by New England votes. It was truly more a Southern than an Eastern measure. And what votes carried the tariff of 1824? Certainly not those of New England. It is known to have been made matter of reproach, especially against Massachusetts, that she would not aid the tariff of 1824; and a selfish motive was imputed to her for that, also. In point of fact, it is true that she did, indeed, oppose the tariff of 1824. There were more votes in favor of that law in the House of Representatives, not only in each of a majority of the Western States, but even in Virginia herself, than in Massachusetts. It was literally forced upon New England; and this shows how groundless, how void of all probability, must be any charge of hostility to the growth of the Western States, as naturally flowing from a cherished policy of her own.

But leaving all conjectures about causes and motives, I go at once to the fact, and I meet it with one broad, comprehensive, and emphatic negative. I deny that, in any part of her history, at any period of the government, or in relation to any leading subject, New England has manifested such hostility as is charged upon her. On the contrary, I maintain that, from the day of the cession of the territories by the States to Congress, no portion of the country has acted either with more liberality or more intelligence, on the subject of the public lands in the new States, than New England.

This statement, though strong, is no stronger than the strictest truths will warrant. Let us look at the historical facts. So soon as the cessions were obtained, it became necessary to make provision for the government and disposition of the territory. The country was to be governed. This, for the present, it was obvious, must be by some territorial system of administration. But the soil, also, was to be granted and settled. Those immense regions, large enough almost for an empire, were to be appropriated to private ownership. How was this best to be done? What system for sale and disposition should be adopt-

ed? Two modes for conducting the sales presented themselves; the one a Southern, and the other a Northern mode. It would be tedious, Sir, here, to run out these different systems into all their distinctions, and to contrast the opposite results. That which was adopted was the Northern system, and is that which we now see in successful operation in all the new States. That which was rejected was the system of warrants, surveys, entry, and location; such as prevails south of the Ohio. It is not necessary to extend these remarks into invidious comparisons. This last system is that which, as has been expressively said, has *shingled* over the country to which it was applied with so many conflicting titles and claims. Every body acquainted with the subject knows how easily it leads to speculation and litigation, — two great calamities in a new country. From the system actually established, these evils are banished. Now, Sir, in effecting this great measure, the first important measure on the whole subject, New England acted with vigor and effect, and the latest posterity of those who settled the region northwest of the Ohio will have reason to remember, with gratitude, her patriotism and her wisdom. The system adopted was her own system. She knew, for she had tried and proved its value. It was the old-fashioned way of surveying lands before the issuing of any title papers, and then of inserting accurate and precise descriptions in the patents or grants, and proceeding with regular reference to metes and bounds. This gives to original titles, derived from government, a certain and fixed character; it cuts up litigation by the roots, and the settler commences his labor with the assurance that he has a clear title. It is easy to perceive, but not easy to measure, the importance of this in a new country. New England gave this system to the West; and while it remains, there will be spread over all the West one monument of her intelligence in matters of government, and her practical good sense.

At the foundation of the constitution of these new Northwestern States lies the celebrated Ordinance of 1787. We are accustomed, Sir, to praise the lawgivers of antiquity; we help to perpetuate the fame of Solon and Lycurgus; but I doubt whether one single law of any lawgiver, ancient or modern, has produced effects of more distinct, marked, and lasting character than the Ordinance of 1787. That instrument was drawn by Nathan

Dane, then and now a citizen of Massachusetts. It was adopted, as I think I have understood, without the slightest alteration; and certainly it has happened to few men to be the authors of a political measure of more large and enduring consequence. It fixed for ever the character of the population in the vast regions northwest of the Ohio, by excluding from them involuntary servitude. It impressed on the soil itself, while it was yet a wilderness, an incapacity to sustain any other than freemen. It laid the interdict against personal servitude, in original compact, not only deeper than all local law, but deeper, also, than all local constitutions. Under the circumstances then existing, I look upon this original and seasonable provision as a real good attained. We see its consequences at this moment, and we shall never cease to see them, perhaps, while the Ohio shall flow. It was a great and salutary measure of prevention. Sir, I should fear the rebuke of no intelligent gentleman of Kentucky, were I to ask whether, if such an ordinance could have been applied to his own State, while it yet was a wilderness, and before Boone had passed the gap of the Alleghanies, he does not suppose it would have contributed to the ultimate greatness of that commonwealth? It is, at any rate, not to be doubted, that, where it did apply, it has produced an effect not easily to be described or measured, in the growth of the States, and the extent and increase of their population. Now, Sir, as I have stated, this great measure was brought forward in 1787, by the North. It was sustained, indeed, by the votes of the South, but it must have failed without the cordial support of the New England States. If New England had been governed by the narrow and selfish views now ascribed to her, this very measure was, of all others, the best calculated to thwart her purposes. It was, of all things, the very means of rendering certain a vast emigration from her own population to the West. She looked to that consequence only to disregard it. She deemed the regulation a most useful one to the States that would spring up on the territory, and advantageous to the country at large. She adhered to the principle of it perseveringly, year after year, until it was finally accomplished.

Leaving, then, Mr. President, these two great and leading measures, and coming down to our own times, what is there in the history of recent measures of government that exposes New

England to this accusation of hostility to Western interests? I assert, boldly, that, in all measures conducive to the welfare of the West, since my acquaintance here, no part of the country has manifested a more liberal policy. I beg to say, Sir, that I do not state this with a view of claiming for her any special regard on that account. Not at all. She does not place her support of measures on the ground of favor conferred. Far otherwise. What she has done has been consonant to her view of the general good, and therefore she has done it. She has sought to make no gain of it; on the contrary, individuals may have felt, undoubtedly, some natural regret at finding the relative importance of their own States diminished by the growth of the West. But New England has regarded that as the natural course of things, and has never complained of it. Let me see, Sir, any one measure favorable to the West, which has been opposed by New England, since the government bestowed its attention on these Western improvements. Select what you will, if it be a measure of acknowledged utility, I answer for it, it will be found that not only were New England votes for it, but that New England votes carried it. Will you take the Cumberland Road? who has made that? Will you take the Portland Canal? whose support carried that bill? Sir, at what period beyond the Greek kalends could these measures, or measures like these, have been accomplished, had they depended on the votes of Southern gentlemen? Why, Sir, we know that we must have waited till the constitutional notions of those gentlemen had undergone an entire change. Generally speaking, they have done nothing, and can do nothing. All that has been effected has been done by the votes of reproached New England. I undertake to say, Sir, that if you look to the votes on any one of these measures, and strike out from the list of ayes the names of New England members, it will be found that, in every case, the South would then have voted down the West, and the measure would have failed. I do not believe any one instance can be found where this is not strictly true. I do not believe that one dollar has been expended for these purposes beyond the mountains, which could have been obtained without cordial coöperation and support from New England.

Sir, I put the question to the West itself. Let gentlemen who have sat here ten years come forth and declare, by what

aids, and by whose votes, they have succeeded, in measures deemed of essential importance to their part of the country. To all men of sense and candor, in or out of Congress, who have any knowledge upon the subject, New England may appeal for refutation of the reproach it is now attempted to cast upon her in this respect.

I take the liberty to repeat, that I make no claim on behalf of New England, or on account of that which I have now stated. She does not profess to have acted out of favor; for it would not become her so to have acted. She asks for no especial thanks; but, in the consciousness of having done her duty in these things uprightly and honestly, and with a fair and liberal spirit, be assured she will repel, whenever she thinks the occasion calls for it, an unjust and groundless imputation of partiality and selfishness.

The gentleman alluded to a report of the late Secretary of the Treasury, which, according to his reading or construction of it, recommended what he calls the tariff policy, or a branch of that policy; that is, the restraining of emigration to the West, for the purpose of keeping hands at home to carry on manufactures. I think, Sir, that the gentleman misapprehended the meaning of the Secretary, in the interpretation given to his remarks. I understand him only as saying, that, since the low price of lands at the West acts as a constant and standing bounty to agriculture, it is, on that account, the more reasonable to provide encouragement for manufactures. But, Sir, even if the Secretary's observation were to be understood as the gentleman understands it, it would not be a sentiment borrowed from any New England source. Whether it be right or wrong, it does not originate in that quarter.

In the course of these remarks, Mr. President, I have spoken of the supposed desire, on the part of the Atlantic States, to check, or at least not to hasten, Western emigration, as a narrow policy. Perhaps I ought to have qualified the expression; because, Sir, I am now about to quote the opinion of one to whom I would impute nothing narrow. I am about to refer you to the language of a gentleman of much and deserved distinction, a member of the other House, and occupying a prominent situation there. The gentleman, Sir, is from South Carolina. In 1825, a debate arose in the House of Rep-

resentatives on the subject of the Western Road. It happened to me to take some part in the debate; I was answered by the honorable gentleman to whom I allude, and I replied. May I be pardoned, Sir, if I read a part of this debate.

"The gentleman from Massachusetts has urged," said Mr. McDuffie, "as one leading reason why the government should make roads to the West, that these roads have a tendency to settle the public lands; that they increase the inducements to settlement, and that this is a national object. Sir, I differ entirely from his views on the subject. I think that the public lands are settling quite fast enough; that our people need no stimulus to urge them thither, but want rather a check, at least on that artificial tendency to Western settlement which we have created by our own laws.

"The gentleman says, that the great object of government with respect to those lands is, not to make them a source of revenue, but to get them settled. What would have been thought of this argument in the old thirteen States? It amounts to this, that those States are to offer a bonus of their own impoverishment, to create a vortex to swallow up our floating population. Look, Sir, at the present aspect of the Southern States. In no part of Europe will you see the same indications of decay. Deserted villages, houses falling to ruin, impoverished lands thrown out of cultivation. Sir, I believe that, if the public lands had never been sold, the aggregate amount of the national wealth would have been greater at this moment. Our population, if concentrated in the old States, and not ground down by tariffs, would have been more prosperous and wealthy. But every inducement has been held out to them to settle in the West, until our population has become sparse, and then the effects of this sparseness are now to be counteracted by another artificial system. Sir, I say if there is any object worthy the attention of this government, it is a plan which shall limit the sale of the public lands. If those lands were sold according to their real value, be it so. But while the government continues as it does to give them away, they will draw the population of the older States, and still further increase the effect which is already distressingly felt, and which must go to diminish the value of all those States possess. And this, Sir, is held out to us as a motive for granting the present appropriation. I would not, indeed, prevent the formation of roads on these considerations, but I certainly would not encourage it. Sir, there is an additional item in the account of the benefits which this government has conferred on the Western States. It is the sale of the public lands at the minimum price. At this moment we are selling to the people of the West, lands, at one dollar and twenty-five cents, which are worth fifteen dollars, and whi would sell at that price if the markets were not glutted '

Mr. Webster observed, in reply, that

"The gentleman from South Carolina had mistaken him, if he supposed that it was his wish so to hasten the sales of the public lands, as to throw them into the hands of purchasers who would sell again. His idea only went as far as this: that the price should be fixed so low as not to prevent the settlement of the lands, yet not so low as to allow speculators to purchase. Mr. Webster observed, that he could not at all concur with the gentleman from South Carolina, in wishing to restrain the laboring classes of population in the Eastern States from going to any part of our territory where they could better their condition; nor did he suppose that such an idea was anywhere entertained. The observations of the gentleman had opened to him new views of policy on this subject, and he thought he now could perceive why some of our States continued to have such bad roads; it must be for the purpose of preventing people from going out of them. The gentleman from South Carolina supposes, that, if our population had been confined to the old thirteen States, the aggregate wealth of the country would have been greater than it now is. But, Sir, it is an error, that the increase of the aggregate of the national wealth is the object chiefly to be pursued by government. The distribution of the national wealth is an object quite as important as its increase. He was not surprised that the old States not increasing in population so fast as was expected, (for he believed nothing like a decrease was pretended,) should be an idea by no means agreeable to gentlemen from those States. We are all reluctant to submit to the loss of relative importance; but this was nothing more than the natural condition of a country densely peopled in one part, and possessing in another a vast tract of unsettled lands. The plan of the gentleman went to reverse the order of nature, vainly expecting to retain men within a small and comparatively unproductive territory, 'who have all the world before them where to choose.' For his own part, he was in favor of letting population take its own course; he should experience no feeling of mortification if any of his constituents liked better to settle on the Kansas or Arkansas, or elsewhere within our territory; let them go, and be happier if they could. The gentleman says, our aggregate of wealth would have been greater if our population had been restrained within the limits of the old States; but does he not consider population to be wealth? And has not this been increased by the settlement of a new and fertile country? Such a country presents the most alluring of all prospects to a young and laboring man; it gives him a freehold, it offers to him weight and respectability in society; and above all, it presents to him a prospect of a permanent provision for his children. Sir, these are inducements which never were resisted, and never

will be ; and, were the whole extent of country filled with population up to the Rocky Mountains, these inducements would carry that population forward to the shores of the Pacific Ocean. Sir, it is in vain to talk ; individuals will seek their own good, and not any artificial aggregate of the national wealth. A young enterprising and hardy agriculturist can conceive of nothing better to him than plenty of good, cheap land."

Sir, with the reading of these extracts I leave the subject. The Senate will bear me witness that I am not accustomed to allude to local opinions, nor to compare or contrast different portions of the country. I have often suffered things to pass without any observation, which I might properly enough have considered as deserving remark. But I have felt it my duty, on this occasion, to vindicate the State I represent from charges and imputations on her public character and conduct, which I know to be undeserved and unfounded. If advanced elsewhere, they might be passed, perhaps, without notice. But whatever is said here is supposed to be entitled to public regard, and to deserve public attention; it derives importance and dignity from the place where it is uttered. As a true representative of the State which has sent me here, it is my duty, and a duty which I shall fulfil, to place her history and her conduct, her honor and her character, in their just and proper light, so often as I think an attack is made upon her, so respectable as to deserve to be repelled.

SECOND SPEECH ON FOOT'S RESOLUTION.*

Mr. Webster having concluded the preceding speech, Mr. Benton spoke in reply, on the 20th and 21st of January, 1830. Mr. Hayne of South Carolina followed on the same side, but, after some time, gave way for a motion for adjournment. On Monday, the 25th, Mr. Hayne resumed, and concluded his argument. Mr. Webster immediately rose in reply, but yielded the floor for a motion for adjournment.

The next day (26th January, 1830) Mr. Webster took the floor and delivered the following speech, which has given such great celebrity to the debate. The circumstances connected with this remarkable effort of parliamentary eloquence are stated in the biographical memoir in the first volume of this collection.

Mr. President, — When the mariner has been tossed for many days in thick weather, and on an unknown sea, he naturally avails himself of the first pause in the storm, the earliest glance of the sun, to take his latitude, and ascertain how far the elements have driven him from his true course. Let us imitate this prudence, and, before we float farther on the waves of this debate, refer to the point from which we departed, that we may at least be able to conjecture where we now are. I ask for the reading of the resolution before the Senate.

The Secretary read the resolution, as follows: —

"*Resolved*, That the Committee on Public Lands be instructed to inquire and report the quantity of public lands remaining unsold within each State and Territory, and whether it be expedient to limit for a certain period the sales of the public lands to such lands only as have heretofore been offered for sale, and are now subject to entry at the minimum

* Delivered in the Senate of the United States on the 26th of January, 1830.

price. And, also, whether the office of Surveyor-General, and some of the land offices, may not be abolished without detriment to the public interest; or whether it be expedient to adopt measures to hasten the sales and extend more rapidly the surveys of the public lands."

We have thus heard, Sir, what the resolution is which is actually before us for consideration; and it will readily occur to every one, that it is almost the only subject about which something has not been said in the speech, running through two days, by which the Senate has been entertained by the gentleman from South Carolina. Every topic in the wide range of our public affairs, whether past or present, — every thing, general or local, whether belonging to national politics or party politics, — seems to have attracted more or less of the honorable member's attention, save only the resolution before the Senate. He has spoken of every thing but the public lands; they have escaped his notice. To that subject, in all his excursions, he has not paid even the cold respect of a passing glance.

When this debate, Sir, was to be resumed, on Thursday morning, it so happened that it would have been convenient for me to be elsewhere. The honorable member, however, did not incline to put off the discussion to another day. He had a shot, he said, to return, and he wished to discharge it. That shot, Sir, which he thus kindly informed us was coming, that we might stand out of the way, or prepare ourselves to fall by it and die with decency, has now been received. Under all advantages, and with expectation awakened by the tone which preceded it, it has been discharged, and has spent its force. It may become me to say no more of its effect, than that, if nobody is found, after all, either killed or wounded, it is not the first time, in the history of human affairs, that the vigor and success of the war have not quite come up to the lofty and sounding phrase of the manifesto.

The gentleman, Sir, in declining to postpone the debate, told the Senate, with the emphasis of his hand upon his heart, that there was something rankling *here*, which he wished to relieve. [Mr Hayne rose, and disclaimed having used the word *rankling* It would not, Mr. President, be safe for the honorable member to appeal to those around him, upon the question whether he did in fact make use of that word. But he may have been unconscious of it. At any rate, it is enough that he

disclaims it. But still, with or without the use of that particular word, he had yet something *here*, he said, of which he wished to rid himself by an immediate reply. In this respect, Sir, I have a great advantage over the honorable gentleman. There is nothing *here*, Sir, which gives me the slightest uneasiness; neither fear, nor anger, nor that which is sometimes more troublesome than either, the consciousness of having been in the wrong. There is nothing, either originating *here*, or now received *here* by the gentleman's shot. Nothing originating here, for I had not the slightest feeling of unkindness towards the honorable member. Some passages, it is true, had occurred since our acquaintance in this body, which I could have wished might have been otherwise; but I had used philosophy and forgotten them. I paid the honorable member the attention of listening with respect to his first speech; and when he sat down, though surprised, and I must even say astonished, at some of his opinions, nothing was farther from my intention than to commence any personal warfare. Through the whole of the few remarks I made in answer, I avoided, studiously and carefully, every thing which I thought possible to be construed into disrespect. And, Sir, while there is thus nothing originating *here* which I have wished at any time, or now wish, to discharge, I must repeat, also, that nothing has been received *here* which *rankles*, or in any way gives me annoyance. I will not accuse the honorable member of violating the rules of civilized war; I will not say, that he poisoned his arrows. But whether his shafts were, or were not, dipped in that which would have caused rankling if they had reached their destination, there was not, as it happened, quite strength enough in the bow to bring them to their mark. If he wishes now to gather up those shafts, he must look for them elsewhere; they will not be found fixed and quivering in the object at which they were aimed.

The honorable member complained that I had slept on his speech. I must have slept on it, or not slept at all. The moment the honorable member sat down, his friend from Missouri rose, and, with much honeyed commendation of the speech, suggested that the impressions which it had produced were too charming and delightful to be disturbed by other sentiments or other sounds, and proposed that the Senate should adjourn. Would it have been quite amiable in me, Sir, to interrupt this

excellent good feeling? Must I not have been absolutely malicious, if I could have thrust myself forward, to destroy sensations thus pleasing? Was it not much better and kinder, both to sleep upon them myself, and to allow others also the pleasure of sleeping upon them? But if it be meant, by sleeping upon his speech, that I took time to prepare a reply to it, it is quite a mistake. Owing to other engagements, I could not employ even the interval between the adjournment of the Senate and its meeting the next morning, in attention to the subject of this debate. Nevertheless, Sir, the mere matter of fact is undoubtedly true. I did sleep on the gentleman's speech, and slept soundly. And I slept equally well on his speech of yesterday, to which I am now replying. It is quite possible that in this respect, also, I possess some advantage over the honorable member, attributable, doubtless, to a cooler temperament on my part; for, in truth, I slept upon his speeches remarkably well.

But the gentleman inquires why *he* was made the object of such a reply. Why was *he* singled out? If an attack has been made on the East, he, he assures us, did not begin it; it was made by the gentleman from Missouri. Sir, I answered the gentleman's speech because I happened to hear it; and because, also, I chose to give an answer to that speech, which, if unanswered, I thought most likely to produce injurious impressions. I did not stop to inquire who was the original drawer of the bill. I found a responsible indorser before me, and it was my purpose to hold him liable, and to bring him to his just responsibility, without delay. But, Sir, this interrogatory of the honorable member was only introductory to another. He proceeded to ask me whether I had turned upon him, in this debate, from the consciousness that I should find an overmatch, if I ventured on a contest with his friend from Missouri. If, Sir, the honorable member, *modestiæ gratia*, had chosen thus to defer to his friend, and to pay him a compliment, without intentional disparagement to others, it would have been quite according to the friendly courtesies of debate, and not at all ungrateful to my own feelings. I am not one of those, Sir, who esteem any tribute of regard, whether light and occasional, or more serious and deliberate, which may be bestowed on others, as so much unjustly withholden from themselves. But the tone and man

ner of the gentleman's question forbid me thus to interpret it. I am not at liberty to consider it as nothing more than a civility to his friend. It had an air of taunt and disparagement, something of the loftiness of asserted superiority, which does not allow me to pass it over without notice. It was put as a question for me to answer, and so put as if it were difficult for me to answer, whether I deemed the member from Missouri an overmatch for myself, in debate here. It seems to me, Sir, that this is extraordinary language, and an extraordinary tone, for the discussions of this body.

Matches and overmatches! Those terms are more applicable elsewhere than here, and fitter for other assemblies than this. Sir, the gentleman seems to forget where and what we are. This is a Senate, a Senate of equals, of men of individual honor and personal character, and of absolute independence. We know no masters, we acknowledge no dictators. This is a hall for mutual consultation and discussion; not an arena for the exhibition of champions. I offer myself, Sir, as a match for no man; I throw the challenge of debate at no man's feet. But then, Sir, since the honorable member has put the question in a manner that calls for an answer, I will give him an answer; and I tell him, that, holding myself to be the humblest of the members here, I yet know nothing in the arm of his friend from Missouri, either alone or when aided by the arm of *his* friend from South Carolina, that need deter even me from espousing whatever opinions I may choose to espouse, from debating whenever I may choose to debate, or from speaking whatever I may see fit to say, on the floor of the Senate. Sir, when uttered as matter of commendation or compliment, I should dissent from nothing which the honorable member might say of his friend. Still less do I put forth any pretensions of my own. But when put to me as matter of taunt, I throw it back, and say to the gentleman, that he could possibly say nothing less likely than such a comparison to wound my pride of personal character. The anger of its tone rescued the remark from intentional irony, which otherwise, probably, would have been its general acceptation. But, Sir, if it be imagined that by this mutual quotation and commendation; if it be supposed that, by casting the characters of the drama, assigning to each his part, to one the attack, to another the cry of onset; or if it be

thought that, by a loud and empty vaunt of anticipated victory, any laurels are to be won here; if it be imagined, especially, that any, or all these things will shake any purpose of mine, I can tell the honorable member, once for all, that he is greatly mistaken, and that he is dealing with one of whose temper and character he has yet much to learn. Sir, I shall not allow myself, on this occasion, I hope on no occasion, to be betrayed into any loss of temper; but if provoked, as I trust I never shall be, into crimination and recrimination, the honorable member may perhaps find that, in that contest, there will be blows to take as well as blows to give; that others can state comparisons as significant, at least, as his own, and that his impunity may possibly demand of him whatever powers of taunt and sarcasm he may possess. I commend him to a prudent husbandry of his resources.

But, Sir, the Coalition! The Coalition! Ay, "the murdered Coalition!" The gentleman asks, if I were led or frighted into this debate by the spectre of the Coalition. "Was it the ghost of the murdered Coalition," he exclaims, "which haunted the member from Massachusetts; and which, like the ghost of Banquo, would never down?" "The murdered Coalition!" Sir, this charge of a coalition, in reference to the late administration, is not original with the honorable member. It did not spring up in the Senate. Whether as a fact, as an argument, or as an embellishment, it is all borrowed. He adopts it, indeed, from a very low origin, and a still lower present condition. It is one of the thousand calumnies with which the press teemed, during an excited political canvass. It was a charge, of which there was not only no proof or probability, but which was in itself wholly impossible to be true. No man of common information ever believed a syllable of it. Yet it was of that class of falsehoods, which, by continued repetition, through all the organs of detraction and abuse, are capable of misleading those who are already far misled, and of further fanning passion already kindling into flame. Doubtless it served in its day, and in greater or less degree, the end designed by it. Having done that, it has sunk into the general mass of stale and loathed calumnies. It is the very cast-off slough of a polluted and shameless press. Incapable of further mischief, it lies in the sewer, lifeless and despised. It is not now, Sir, in the power of the honorable

member to give it dignity or decency, by attempting to elevate it, and to introduce it into the Senate. He cannot change it from what it is, an object of general disgust and scorn. On the contrary, the contact, if he choose to touch it, is more likely to drag him down, down, to the place where it lies itself.

But, Sir, the honorable member was not, for other reasons, entirely happy in his allusion to the story of Banquo's murder and Banquo's ghost. It was not, I think, the friends, but the enemies of the murdered Banquo, at whose bidding his spiri would not *down*. The honorable gentleman is fresh in his reading of the English classics, and can put me right if I am wrong; but, according to my poor recollection, it was at those who had begun with caresses and ended with foul and treacherous murder that the gory locks were shaken. The ghost of Banquo, like that of Hamlet, was an honest ghost. It disturbed no innocent man. It knew where its appearance would strike terror, and who would cry out, A ghost! It made itself visible in the right quarter, and compelled the guilty and the conscience-smitten, and none others, to start, with,

> "Pr'ythee, see there! behold! — look! lo
> If I stand here, I saw him!"

THEIR eyeballs were seared (was it not so, Sir?) who had thought to shield themselves by concealing their own hand, and laying the imputation of the crime on a low and hireling agency in wickedness; who had vainly attempted to stifle the workings of their own coward consciences by ejaculating through white lips and chattering teeth, "Thou canst not say I did it!" I have misread the great poet if those who had no way partaken in the deed of the death, either found that they were, or *feared that they should be*, pushed from their stools by the ghost of the slain, or exclaimed to a spectre created by their own fears and their own remorse, "Avaunt! and quit our sight!"

There is another particular, Sir, in which the honorable member's quick perception of resemblances might, I should think, have seen something in the story of Banquo, making it not altogether a subject of the most pleasant contemplation. Those who murdered Banquo, what did they win by it? Substantial good? Permanent power? Or disappointment, rather, and sore mortification; dust and ashes, the common fate of vaulting

ambition overleaping itself? Did not even-handed justice ere long commend the poisoned chalice to their own lips? Did they not soon find that for another they had "filed their mind"? that their ambition, though apparently for the moment successful, had but put a barren sceptre in their grasp? Ay, Sir,

> "a barren sceptre in their gripe,
> *Thence to be wrenched with an unlineal hand,*
> *No son of theirs succeeding.*"

Sir, I need pursue the allusion no farther. I leave the honorable gentleman to run it out at his leisure, and to derive from it all the gratification it is calculated to administer. If he finds himself pleased with the associations, and prepared to be quite satisfied, though the parallel should be entirely completed, I had almost said, I am satisfied also; but that I shall think of. Yes, Sir, I will think of that.

In the course of my observations the other day, Mr. President, I paid a passing tribute of respect to a very worthy man, Mr. Dane of Massachusetts. It so happened that he drew the Ordinance of 1787, for the government of the Northwestern Territory. A man of so much ability, and so little pretence; of so great a capacity to do good, and so unmixed a disposition to do it for its own sake; a gentleman who had acted an important part, forty years ago, in a measure the influence of which is still deeply felt in the very matter which was the subject of debate, might, I thought, receive from me a commendatory recognition. But the honorable member was inclined to be facetious on the subject. He was rather disposed to make it matter of ridicule, that I had introduced into the debate the name of one Nathan Dane, of whom he assures us he had never before heard. Sir, if the honorable member had never before heard of Mr. Dane, I am sorry for it. It shows him less acquainted with the public men of the country than I had supposed. Let me tell him, however, that a sneer from him at the mention of the name of Mr. Dane is in bad taste. It may well be a high mark of ambition, Sir, either with the honorable gentleman or myself, to accomplish as much to make our names known to advantage, and remembered with gratitude, as Mr. Dane has accomplished. But the truth is, Sir, I suspect, that Mr. Dane lives a little too far north. He is of Massachusetts, and too near the north star to be reached by the honorable gentleman's telescope. If his

sphere had happened to range south of Mason and Dixon's line, he might, probably, have come within the scope of his vision.

I spoke, Sir, of the Ordinance of 1787, which prohibits slavery, in all future times, northwest of the Ohio, as a measure of great wisdom and foresight, and one which had been attended with highly beneficial and permanent consequences. I supposed that, on this point, no two gentlemen in the Senate could entertain different opinions. But the simple expression of this sentiment has led the gentleman, not only into a labored defence of slavery, in the abstract, and on principle, but also into a warm accusation against me, as having attacked the system of domestic slavery now existing in the Southern States. For all this, there was not the slightest foundation, in any thing said or intimated by me. I did not utter a single word which any ingenuity could torture into an attack on the slavery of the South. I said, only, that it was highly wise and useful, in legislating for the Northwestern country while it was yet a wilderness, to prohibit the introduction of slaves; and I added, that I presumed there was no reflecting and intelligent person, in the neighboring State of Kentucky, who would doubt that, if the same prohibition had been extended, at the same early period, over that commonwealth, her strength and population would, at this day, have been far greater than they are. If these opinions be thought doubtful, they are nevertheless, I trust, neither extraordinary nor disrespectful. They attack nobody and menace nobody. And yet, Sir, the gentleman's optics have discovered, even in the mere expression of this sentiment, what he calls the very spirit of the Missouri question! He represents me as making an onset on the whole South, and manifesting a spirit which would interfere with, and disturb, their domestic condition!

Sir, this injustice no otherwise surprises me, than as it is committed here, and committed without the slightest pretence of ground for it. I say it only surprises me as being done here; for I know full well, that it is, and has been, the settled policy of some persons in the South, for years, to represent the people of the North as disposed to interfere with them in their own exclusive and peculiar concerns. This is a delicate and sensitive point in Southern feeling; and of late years it has always been touched, and generally with effect, whenever the object has been to unite the whole South against Northern men or

Northern measures. This feeling, always carefully kept alive, and maintained at too intense a heat to admit discrimination or reflection, is a lever of great power in our political machine. It moves vast bodies, and gives to them one and the same direction. But it is without adequate cause, and the suspicion which exists is wholly groundless. There is not, and never has been, a disposition in the North to interfere with these interests of the South. Such interference has never been supposed to be within the power of government; nor has it been in any way attempted. The slavery of the South has always been regarded as a matter of domestic policy, left with the States themselves, and with which the federal government had nothing to do. Certainly, Sir, I am, and ever have been, of that opinion. The gentleman, indeed, argues that slavery, in the abstract, is no evil. Most assuredly I need not say I differ with him, altogether and most widely, on that point. I regard domestic slavery as one of the greatest evils, both moral and political. But whether it be a malady, and whether it be curable, and if so, by what means; or, on the other hand, whether it be the *vulnus immedicabile* of the social system, I leave it to those whose right and duty it is to inquire and to decide. And this I believe, Sir, is, and uniformly has been, the sentiment of the North. Let us look a little at the history of this matter.

When the present Constitution was submitted for the ratification of the people, there were those who imagined that the powers of the government which it proposed to establish might, in some possible mode, be exerted in measures tending to the abolition of slavery. This suggestion would of course attract much attention in the Southern conventions. In that of Virginia, Governor Randolph said: —

"I hope there is none here, who, considering the subject in the calm light of philosophy, will make an objection dishonorable to Virginia; that, at the moment they are securing the rights of their citizens, an objection is started, that there is a spark of hope that those unfortunate men now held in bondage may, by the operation of the general government, be made free."

At the very first Congress, petitions on the subject were presented, if I mistake not, from different States. The Pennsylvania society for promoting the abolition of slavery took a lead, and laid before Congress a memorial, praying Congress to pro

mote the abolition by such powers as it possessed. This memorial was referred, in the House of Representatives, to a select committee, consisting of Mr. Foster, of New Hampshire, Mr. Gerry of Massachusetts, Mr. Huntington of Connecticut, Mr. Lawrence of New York, Mr. Sinnickson of New Jersey, Mr. Hartley of Pennsylvania, and Mr. Parker of Virginia; all of them, Sir, as you will observe, Northern men but the last. This committee made a report, which was referred to a committee of the whole House, and there considered and discussed for several days; and being amended, although without material alteration, it was made to express three distinct propositions, on the subject of slavery and the slave-trade. First, in the words of the Constitution, that Congress could not, prior to the year 1808, prohibit the migration or importation of such persons as any of the States then existing should think proper to admit; and secondly, that Congress had authority to restrain the citizens of the United States from carrying on the African slave-trade, for the purpose of supplying foreign countries. On this proposition, our early laws against those who engage in that traffic are founded. The third proposition, and that which bears on the present question, was expressed in the following terms: —

"*Resolved*, That Congress have no authority to interfere in the emancipation of slaves, or in the treatment of them in any of the States; it remaining with the several States alone to provide rules and regulations therein which humanity and true policy may require."

This resolution received the sanction of the House of Representatives so early as March, 1790. And now, Sir, the honorable member will allow me to remind him, that not only were the select committee who reported the resolution, with a single exception, all Northern men, but also that, of the members then composing the House of Representatives, a large majority, I believe nearly two thirds, were Northern men also.

The House agreed to insert these resolutions in its journal and from that day to this it has never been maintained or contended at the North, that Congress had any authority to regulate or interfere with the condition of slaves in the several States. No Northern gentleman, to my knowledge, has moved any such question in either House of Congress.

The fears of the South, whatever fears they might have enter-

tained, were allayed and quieted by this early decision; and so remained till they were excited afresh, without cause, but for collateral and indirect purposes. When it became necessary, or was thought so, by some political persons, to find an unvarying ground for the exclusion of Northern men from confidence and from lead in the affairs of the republic, then, and not till then, the cry was raised, and the feeling industriously excited, that the influence of Northern men in the public counsels would endanger the relation of master and slave. For myself, I claim no other merit than that this gross and enormous injustice towards the whole North has not wrought upon me to change my opinions or my political conduct. I hope I am above violating my principles, even under the smart of injury and false imputations. Unjust suspicions and undeserved reproach, whatever pain I may experience from them, will not induce me, I trust, to overstep the limits of constitutional duty, or to encroach on the rights of others. The domestic slavery of the Southern States I leave where I find it, — in the hands of their own governments. It is their affair, not mine. Nor do I complain of the peculiar effect which the magnitude of that population has had in the distribution of power under this federal government. We know, Sir, that the representation of the States in the other house is not equal. We know that great advantage in that respect is enjoyed by the slave-holding States; and we know, too, that the intended equivalent for that advantage, that is to say, the imposition of direct taxes in the same ratio, has become merely nominal, the habit of the government being almost invariably to collect its revenue from other sources and in other modes. Nevertheless, I do not complain; nor would I countenance any movement to alter this arrangement of representation. It is the original bargain, the compact; let it stand; let the advantage of it be fully enjoyed. The Union itself is too full of benefit to be hazarded in propositions for changing its original basis. I go for the Constitution as it is, and for the Union as it is. But I am resolved not to submit in silence to accusations, either against myself individually or against the North, wholly unfounded and unjust; accusations which impute to us a disposition to evade the constitutional compact, and to extend the power of the government over the internal laws and domestic condition of the States. All such accusations, wherever and whenever made, all

insinuations of the existence of any such purposes, I know and feel to be groundless and injurious. And we must confide in Southern gentlemen themselves; we must trust to those whose integrity of heart and magnanimity of feeling will lead them to a desire to maintain and disseminate truth, and who possess the means of its diffusion with the Southern public; we must leave it to them to disabuse that public of its prejudices. But in the mean time, for my own part, I shall continue to act justly, whether those towards whom justice is exercised receive it with candor or with contumely.

Having had occasion to recur to the Ordinance of 1787, in order to defend myself against the inferences which the honorable member has chosen to draw from my former observations on that subject, I am not willing now entirely to take leave of it without another remark. It need hardly be said, that that paper expresses just sentiments on the great subject of civil and religious liberty. Such sentiments were common, and abound in all our state papers of that day. But this Ordinance did that which was not so common, and which is not even now universal; that is, it set forth and declared it to be a high and binding duty of government itself to support schools and advance the means of education, on the plain reason that religion, morality, and knowledge are necessary to good government, and to the happiness of mankind. One observation further. The important provision incorporated into the Constitution of the United States, and into several of those of the States, and recently, as we have seen, adopted into the reformed constitution of Virginia, restraining legislative power in questions of private right, and from impairing the obligation of contracts, is first introduced and established, as far as I am informed, as matter of express written constitutional law, in this Ordinance of 1787. And I must add, also, in regard to the author of the Ordinance, who has not had the happiness to attract the gentleman's notice heretofore, nor to avoid his sarcasm now, that he was chairman of that select committee of the old Congress, whose report first expressed the strong sense of that body, that the old Confederation was not adequate to the exigencies of the country and recommended to the States to send delegates to the convention which formed the present Constitution.*

* See Note A, at the end of the speech.

An attempt has been made to transfer from the North to the South the honor of this exclusion of slavery from the North-western Territory. The journal, without argument or comment, refutes such attempts. The cession by Virginia was made in March, 1784. On the 19th of April following, a committee, consisting of Messrs. Jefferson, Chase, and Howell, reported a plan for a temporary government of the territory, in which was this article: "That, after the year 1800, there shall be neither slavery nor involuntary servitude in any of the said States, otherwise than in punishment of crimes, whereof the party shall have been convicted." Mr. Spaight of North Carolina moved to strike out this paragraph. The question was put, according to the form then practised, "Shall these words stand as a part of the plan?" New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, and Pennsylvania, seven States, voted in the affirmative; Maryland, Virginia, and South Carolina, in the negative. North Carolina was divided. As the consent of nine States was necessary, the words could not stand, and were struck out accordingly. Mr. Jefferson voted for the clause, but was overruled by his colleagues.

In March of the next year (1785), Mr. King of Massachusetts, seconded by Mr. Ellery of Rhode Island, proposed the formerly rejected article, with this addition: "And that this regulation shall be an article of compact, and remain a fundamental principle of the constitutions between the thirteen original States, and each of the States described in the resolve." On this clause, which provided the adequate and thorough security, the eight Northern States at that time voted affirmatively, and the four Southern States negatively. The votes of nine States were not yet obtained, and thus the provision was again rejected by the Southern States. The perseverance of the North held out, and two years afterwards the object was attained. It is no derogation from the credit, whatever that may be, of drawing the Ordinance, that its principles had before been prepared and discussed, in the form of resolutions. If one should reason in that way, what would become of the distinguished honor of the author of the Declaration of Independence? There is not a sentiment in that paper which had not been voted and resolved in the assemblies, and other popular bodies in the country, over and over again.

But the honorable member has now found out that this gentleman, Mr. Dane, was a member of the Hartford Convention. However uninformed the honorable member may be of characters and occurrences at the North, it would seem that he has at his elbow, on this occasion, some high-minded and lofty spirit, some magnanimous and true-hearted monitor, possessing the means of local knowledge, and ready to supply the honorable member with every thing, down even to forgotten and moth-eaten two-penny pamphlets, which may be used to the disadvantage of his own country. But as to the Hartford Convention, Sir, allow me to say, that the proceedings of that body seem now to be less read and studied in New England than farther South. They appear to be looked to, not in New England, but elsewhere, for the purpose of seeing how far they may serve as a precedent. But they will not answer the purpose, they are quite too tame. The latitude in which they originated was too cold. Other conventions, of more recent existence, have gone a whole bar's length beyond it. The learned doctors of Colleton and Abbeville have pushed their commentaries on the Hartford collect so far, that the original text-writers are thrown entirely into the shade. I have nothing to do, Sir, with the Hartford Convention. Its journal, which the gentleman has quoted, I never read. So far as the honorable member may discover in its proceedings a spirit in any degree resembling that which was avowed and justified in those other conventions to which I have alluded, or so far as those proceedings can be shown to be disloyal to the Constitution, or tending to disunion, so far I shall be as ready as any one to bestow on them reprehension and censure.

Having dwelt long on this convention, and other occurrences of that day, in the hope, probably, (which will not be gratified,) that I should leave the course of this debate to follow him at length in those excursions, the honorable member returned, and attempted another object. He referred to a speech of mine in the other house, the same which I had occasion to allude to myself, the other day; and has quoted a passage or two from it, with a bold, though uneasy and laboring, air of confidence, as if he had detected in me an inconsistency. Judging from the gentleman's manner, a stranger to the course of the debate and to the point in discussion would have imagined, from so triumphant a tone, that the honorable member was about to

overwhelm me with a manifest contradiction. Any one who heard him, and who had not heard what I had, in fact, previously said, must have thought me routed and discomfited, as the gentleman had promised. Sir, a breath blows all this triumph away. There is not the slightest difference in the purport of my remarks on the two occasions. What I said here on Wednesday is in exact accordance with the opinion expressed by me in the other house in 1825. Though the gentleman had the metaphysics of Hudibras, though he were able

> "to sever and divide
> A hair 'twixt north and northwest side,"

he yet could not insert his metaphysical scissors between the fair reading of my remarks in 1825, and what I said here last week. There is not only no contradiction, no difference, but, in truth, too exact a similarity, both in thought and language, to be entirely in just taste. I had myself quoted the same speech; had recurred to it, and spoke with it open before me; and much of what I said was little more than a repetition from it. In order to make finishing work with this alleged contradiction, permit me to recur to the origin of this debate, and review its course. This seems expedient, and may be done as well now as at any time.

Well, then, its history is this. The honorable member from Connecticut moved a resolution, which constitutes the first branch of that which is now before us; that is to say, a resolution, instructing the committee on public lands to inquire into the expediency of limiting, for a certain period, the sales of the public lands, to such as have heretofore been offered for sale; and whether sundry offices connected with the sales of the lands might not be abolished without detriment to the public service. In the progress of the discussion which arose on this resolution, an honorable member from New Hampshire moved to amend the resolution, so as entirely to reverse its object; that is, to strike it all out, and insert a direction to the committee to inquire into the expediency of adopting measures to hasten the sales, and extend more rapidly the surveys, of the lands.

The honorable member from Maine* suggested that both

* Mr. Sprague.

those propositions might well enough go for consideration to the committee; and in this state of the question, the member from South Carolina addressed the Senate in his first speech. He rose, he said, to give us his own free thoughts on the public lands. I saw him rise with pleasure, and listened with expectation, though before he concluded I was filled with surprise. Certainly, I was never more surprised, than to find him following up, to the extent he did, the sentiments and opinions which the gentleman from Missouri had put forth, and which it is known he has long entertained.

I need not repeat at large the general topics of the honorable gentleman's speech. When he said yesterday that he did not attack the Eastern States, he certainly must have forgotten, not only particular remarks, but the whole drift and tenor of his speech; unless he means by not attacking, that he did not commence hostilities, but that another had preceded him in the attack. He, in the first place, disapproved of the whole course of the government, for forty years, in regard to its disposition of the public lands; and then, turning northward and eastward, and fancying he had found a cause for alleged narrowness and niggardliness in the "accursed policy" of the tariff, to which he represented the people of New England as wedded, he went on for a full hour with remarks, the whole scope of which was to exhibit the results of this policy, in feelings and in measures unfavorable to the West. I thought his opinions unfounded and erroneous, as to the general course of the government, and ventured to reply to them.

The gentleman had remarked on the analogy of other cases, and quoted the conduct of European governments towards their own subjects settling on this continent, as in point, to show that we had been harsh and rigid in selling, when we should have given the public lands to settlers without price. I thought the honorable member had suffered his judgment to be betrayed by a false analogy; that he was struck with an appearance of resemblance where there was no real similitude. I think so still. The first settlers of North America were enterprising spirits, engaged in private adventure, or fleeing from tyranny at home. When arrived here, they were forgotten by the mother country, or remembered only to be oppressed. Carried away again by the appearance of analogy, or struck with the eloquence of the

passage, the honorable member yesterday observed, that the conduct of government towards the Western emigrants, or my representation of it, brought to his mind a celebrated speech in the British Parliament. It was, Sir, the speech of Colonel Barre. On the question of the stamp act, or tea tax, I forget which, Colonel Barre had heard a member on the treasury bench argue, that the people of the United States, being British colonists, planted by the maternal care, nourished by the indulgence, and protected by the arms of England, would not grudge their mite to relieve the mother country from the heavy burden under which she groaned. The language of Colonel Barre, in reply to this, was,—"They planted by your care? Your oppression planted them in America. They fled from your tyranny, and grew by your neglect of them. So soon as you began to care for them, you showed your care by sending persons to spy out their liberties, misrepresent their character, prey upon them, and eat out their substance."

And how does the honorable gentleman mean to maintain, that language like this is applicable to the conduct of the government of the United States towards the Western emigrants, or to any representation given by me of that conduct? Were the settlers in the West driven thither by our oppression? Have they flourished only by our neglect of them? Has the government done nothing but prey upon them, and eat out their substance? Sir, this fervid eloquence of the British speaker, just when and where it was uttered, and fit to remain an exercise for the schools, is not a little out of place, when it is brought thence to be applied here, to the conduct of our own country towards her own citizens. From America to England, it may be true; from Americans to their own government, it would be strange language. Let us leave it, to be recited and declaimed by our boys against a foreign nation; not introduce it here, to recite and declaim ourselves against our own.

But I come to the point of the alleged contradiction. In my remarks on Wednesday, I contended that we could not give away gratuitously all the public lands; that we held them in trust; that the government had solemnly pledged itself to dispose of them as a common fund for the common benefit, and to sell and settle them as its discretion should dictate. Now, Sir, what contradiction does the gentleman find to this sentiment in

the speech of 1825? He quotes me as having then said, that we ought not to hug these lands as a very great treasure. Very well, Sir, supposing me to be accurately reported in that expression, what is the contradiction? I have not now said, that we should hug these lands as a favorite source of pecuniary income. No such thing. It is not my view. What I have said, and what I do say, is, that they are a common fund, to be disposed of for the common benefit, to be sold at low prices for the accommodation of settlers, keeping the object of settling the lands as much in view as that of raising money from them. This I say now, and this I have always said. Is this hugging them as a favorite treasure? Is there no difference between hugging and hoarding this fund, on the one hand, as a great treasure, and, on the other, of disposing of it at low prices, placing the proceeds in the general treasury of the Union? My opinion is, that as much is to be made of the land as fairly and reasonably may be, selling it all the while at such rates as to give the fullest effect to settlement. This is not giving it all away to the States, as the gentleman would propose; nor is it hugging the fund closely and tenaciously, as a favorite treasure; but it is, in my judgment, a just and wise policy, perfectly according with all the various duties which rest on government. So much for my contradiction. And what is it? Where is the ground of the gentleman's triumph? What inconsistency in word or doctrine has he been able to detect? Sir, if this be a sample of that discomfiture with which the honorable gentleman threatened me, commend me to the word *discomfiture* for the rest of my life.

But, after all, this is not the point of the debate; and I must now bring the gentleman back to what is the point.

The real question between me and him is, Has the doctrine been advanced at the South or the East, that the population of the West should be retarded, or at least need not be hastened, on account of its effect to drain off the people from the Atlantic States? Is this doctrine, as has been alleged, of Eastern origin? That is the question. Has the gentleman found any thing by which he can make good his accusation? I submit to the Senate, that he has entirely failed; and, as far as this debate has shown, the only person who has advanced such sentiments is a gentleman from South Carolina, and a friend of the honorable member himself. The honorable gentleman has given no

answer to this; there is none which can be given. The simple fact, while it requires no comment to enforce it, defies all argument to refute it. I could refer to the speeches of another Southern gentleman, in years before, of the same general character, and to the same effect, as that which has been quoted; but I will not consume the time of the Senate by the reading of them.

So then, Sir, New England is guiltless of the policy of retarding Western population, and of all envy and jealousy of the growth of the new States. Whatever there be of that policy in the country, no part of it is hers. If it has a local habitation, the honorable member has probably seen by this time where to look for it; and if it now has received a name, he has himself christened it.

We approach, at length, Sir, to a more important part of the honorable gentleman's observations. Since it does not accord with my views of justice and policy to give away the public lands altogether, as a mere matter of gratuity, I am asked by the honorable gentleman on what ground it is that I consent to vote them away in particular instances. How, he inquires, do I reconcile with these professed sentiments, my support of measures appropriating portions of the lands to particular roads, particular canals, particular rivers, and particular institutions of education in the West? This leads, Sir, to the real and wide difference in political opinion between the honorable gentleman and myself. On my part, I look upon all these objects as connected with the common good, fairly embraced in its object and its terms; he, on the contrary, deems them all, if good at all, only local good. This is our difference. The interrogatory which he proceeded to put, at once explains this difference. "What interest," asks he, "has South Carolina in a canal in Ohio?" Sir, this very question is full of significance. It develops the gentleman's whole political system; and its answer expounds mine. Here we differ. I look upon a road over the Alleghanies, a canal round the falls of the Ohio, or a canal or railway from the Atlantic to the Western waters, as being an object large and extensive enough to be fairly said to be for the common benefit. The gentleman thinks otherwise, and this is the key to his construction of the powers of the government. He may well ask what interest has South Carolina in a

canal in Ohio. On his system, it is true, she has no interest. On that system, Ohio and Carolina are different governments, and different countries; connected here, it is true, by some slight and ill-defined bond of union, but in all main respects separate and diverse. On that system, Carolina has no more interest in a canal in Ohio than in Mexico. The gentleman, therefore, only follows out his own principles; he does no more than arrive at the natural conclusions of his own doctrines; he only announces the true results of that creed which he has adopted himself, and would persuade others to adopt, when he thus declares that South Carolina has no interest in a public work in Ohio.

Sir, we narrow-minded people of New England do not reason thus. Our *notion* of things is entirely different. We look upon the States, not as separated, but as united. We love to dwell on that union, and on the mutual happiness which it has so much promoted, and the common renown which it has so greatly contributed to acquire. In our contemplation, Carolina and Ohio are parts of the same country; States, united under the same general government, having interests, common, associated, intermingled. In whatever is within the proper sphere of the constitutional power of this government, we look upon the States as one. We do not impose geographical limits to our patriotic feeling or regard; we do not follow rivers and mountains, and lines of latitude, to find boundaries, beyond which public improvements do not benefit us. We who come here, as agents and representatives of these narrow-minded and selfish men of New England, consider ourselves as bound to regard with an equal eye the good of the whole, in whatever is within our powers of legislation. Sir, if a railroad or canal, beginning in South Carolina and ending in South Carolina, appeared to me to be of national importance and national magnitude, believing, as I do, that the power of government extends to the encouragement of works of that description, if I were to stand up here and ask, What interest has Massachusetts in a railroad in South Carolina? I should not be willing to face my constituents. These same narrow-minded men would tell me, that they had sent me to act for the whole country, and that one who possessed too little comprehension, either of intellect or feeling, one who was not large enough, both in mind and in

heart, to embrace the whole, was not fit to be intrusted with the interest of any part.

Sir, I do not desire to enlarge the powers of the government by unjustifiable construction, nor to exercise any not within a fair interpretation. But when it is believed that a power does exist, then it is, in my judgment, to be exercised for the general benefit of the whole. So far as respects the exercise of such a power, the States are one. It was the very object of the Constitution to create unity of interests to the extent of the powers of the general government. In war and peace we are one; in commerce, one; because the authority of the general government reaches to war and peace, and to the regulation of commerce. I have never seen any more difficulty in erecting lighthouses on the lakes, than on the ocean; in improving the harbors of inland seas, than if they were within the ebb and flow of the tide; or in removing obstructions in the vast streams of the West, more than in any work to facilitate commerce on the Atlantic coast. If there be any power for one, there is power also for the other; and they are all and equally for the common good of the country.

There are other objects, apparently more local, or the benefit of which is less general, towards which, nevertheless, I have concurred with others, to give aid by donations of land. It is proposed to construct a road, in or through one of the new States, in which this government possesses large quantities of land. Have the United States no right, or, as a great and untaxed proprietor, are they under no obligation to contribute to an object thus calculated to promote the common good of all the proprietors, themselves included? And even with respect to education, which is the extreme case, let the question be considered. In the first place, as we have seen, it was made matter of compact with these States, that they should do their part to promote education. In the next place, our whole system of land laws proceeds on the idea that education is for the common good; because, in every division, a certain portion is uniformly reserved and appropriated for the use of schools. And, finally, have not these new States singularly strong claims, founded on the ground already stated, that the government is a great untaxed proprietor, in the ownership of the soil? It is a consideration of great importance, that probably there is in no part of

the country, or of the world, so great call for the means of education, as in these new States, owing to the vast numbers of persons within those ages in which education and instruction are usually received, if received at all. This is the natural consequence of recency of settlement and rapid increase. The census of these States shows how great a proportion of the whole population occupies the classes between infancy and manhood. These are the wide fields, and here is the deep and quick soil for the seeds of knowledge and virtue; and this is the favored season, the very spring-time for sowing them. Let them be disseminated without stint. Let them be scattered with a bountiful hand, broadcast. Whatever the government can fairly do towards these objects, in my opinion, ought to be done.

These, Sir, are the grounds, succinctly stated, on which my votes for grants of lands for particular objects rest; while I maintain, at the same time, that it is all a common fund, for the common benefit. And reasons like these, I presume, have influenced the votes of other gentlemen from New England. Those who have a different view of the powers of the government, of course, come to different conclusions, on these, as on other questions. I observed, when speaking on this subject before, that if we looked to any measure, whether for a road, a canal, or any thing else, intended for the improvement of the West, it would be found that, if the New England *ayes* were struck out of the lists of votes, the Southern *noes* would always have rejected the measure. The truth of this has not been denied, and cannot be denied. In stating this, I thought it just to ascribe it to the constitutional scruples of the South, rather than to any other less favorable or less charitable cause. But no sooner had I done this, than the honorable gentleman asks if I reproach him and his friends with their constitutional scruples. Sir, I reproach nobody. I stated a fact, and gave the most respectful reason for it that occurred to me. The gentleman cannot deny the fact; he may, if he choose, disclaim the reason. It is not long since I had occasion, in presenting a petition from his own State, to account for its being intrusted to my hands, by saying, that the constitutional opinions of the gentleman and his worthy colleague prevented them from supporting it. Sir, did I state this as matter of reproach? Far from it. Did I attempt to find any other cause than an honest

one for these scruples? Sir, I did not. It did not become me to doubt or to insinuate that the gentleman had either changed his sentiments, or that he had made up a set of constitutional opinions accommodated to any particular combination of political occurrences. Had I done so, I should have felt, that, while I was entitled to little credit in thus questioning other people's motives, I justified the whole world in suspecting my own. But how has the gentleman returned this respect for others' opinions? His own candor and justice, how have they been exhibited towards the motives of others, while he has been at so much pains to maintain, what nobody has disputed, the purity of his own? Why, Sir, he has asked *when*, and *how*, and *why* New England votes were found going for measures favorable to the West. He has demanded to be informed whether all this did not begin in 1825, and while the election of President was still pending.

Sir, to these questions retort would be justified; and it is both cogent and at hand. Nevertheless, I will answer the inquiry, not by retort, but by facts. I will tell the gentleman *when*, and *how*, and *why* New England has supported measures favorable to the West. I have already referred to the early history of the government, to the first acquisition of the lands, to the original laws for disposing of them, and for governing the territories where they lie; and have shown the influence of New England men and New England principles in all these leading measures. I should not be pardoned were I to go over that ground again. Coming to more recent times, and to measures of a less general character, I have endeavored to prove that every thing of this kind, designed for Western improvement, has depended on the votes of New England; all this is true beyond the power of contradiction. And now, Sir, there are two measures to which I will refer, not so ancient as to belong to the early history of the public lands, and not so recent as to be on this side of the period when the gentleman charitably imagines a new direction may have been given to New England feeling and New England votes. These measures, and the New England votes in support of them, may be taken as samples and specimens of all the rest.

In 1820 (observe, Mr. President, in 1820) the people of the West besought Congress for a reduction in the price of lands.

In favor of that reduction, New England, with a delegation of forty members in the other house, gave thirty-three votes, and one only against it. The four Southern States, with more than fifty members, gave thirty-two votes for it, and seven against it. Again, in 1821 (observe again, Sir, the time), the law passed for the relief of the purchasers of the public lands. This was a measure of vital importance to the West, and more especially to the Southwest. It authorized the relinquishment of contracts for lands which had been entered into at high prices, and a reduction in other cases of not less than thirty-seven and a half per cent. on the purchase-money. Many millions of dollars, six or seven, I believe, probably much more, were relinquished by this law. On this bill, New England, with her forty members, gave more affirmative votes than the four Southern States, with their fifty-two or fifty-three members. These two are far the most important general measures respecting the public lands which have been adopted within the last twenty years. They took place in 1820 and 1821. That is the time *when.*

As to the manner *how*, the gentleman already sees that it was by voting in solid column for the required relief; and, lastly, as to the cause *why*, I tell the gentleman it was because the members from New England thought the measures just and salutary; because they entertained towards the West neither envy, hatred, nor malice; because they deemed it becoming them, as just and enlightened public men, to meet the exigency which had arisen in the West with the appropriate measure of relief; because they felt it due to their own characters, and the characters of their New England predecessors in this government, to act towards the new States in the spirit of a liberal, patronizing, magnanimous policy. So much, Sir, for the cause *why;* and I hope that by this time, Sir, the honorable gentleman is satisfied; if not, I do not know *when*, or *how*, or *why* he ever will be.

Having recurred to these two important measures, in answer to the gentleman's inquiries, I must now beg permission to go back to a period somewhat earlier, for the purpose of still further showing how much, or rather how little, reason there is for the gentleman's insinuation that political hopes or fears, or party associations, were the grounds of these New England votes. And after what has been said, I hope it may be forgiven me if I allude to some political opinions and votes of my own,

of very little public importance certainly, but which, from the time at which they were given and expressed, may pass for good witnesses on this occasion.

This government, Mr. President, from its origin to the peace of 1815, had been too much engrossed with various other important concerns to be able to turn its thoughts inward, and look to the development of its vast internal resources. In the early part of President Washington's administration, it was fully occupied with completing its own organization, providing for the public debt, defending the frontiers, and maintaining domestic peace. Before the termination of that administration, the fires of the French Revolution blazed forth, as from a new-opened volcano, and the whole breadth of the ocean did not secure us from its effects. The smoke and the cinders reached us, though not the burning lava. Difficult and agitating questions, embarrassing to government and dividing public opinion, sprung out of the new state of our foreign relations, and were succeeded by others, and yet again by others, equally embarrassing and equally exciting division and discord, through the long series of twenty years, till they finally issued in the war with England. Down to the close of that war, no distinct, marked, and deliberate attention had been given, or could have been given, to the internal condition of the country, its capacities of improvement, or the constitutional power of the government in regard to objects connected with such improvement.

The peace, Mr. President, brought about an entirely new and a most interesting state of things; it opened to us other prospects and suggested other duties. We ourselves were changed, and the whole world was changed. The pacification of Europe, after June, 1815, assumed a firm and permanent aspect. The nations evidently manifested that they were disposed for peace. Some agitation of the waves might be expected, even after the storm had subsided, but the tendency was, strongly and rapidly, towards settled repose.

It so happened, Sir, that I was at that time a member of Congress, and, like others, naturally turned my thoughts to the contemplation of the recently altered condition of the country and of the world. It appeared plainly enough to me, as well as to wiser and more experienced men, that the policy of the government would naturally take a start in a new direction; because

new directions would necessarily be given to the pursuits and occupations of the people. We had pushed our commerce far and fast, under the advantage of a neutral flag. But there were now no longer flags, either neutral or belligerent. The harvest of neutrality had been great, but we had gathered it all. With the peace of Europe, it was obvious there would spring up in her circle of nations a revived and invigorated spirit of trade, and a new activity in all the business and objects of civilized life. Hereafter, our commercial gains were to be earned only by success in a close and intense competition. Other nations would produce for themselves, and carry for themselves, and manufacture for themselves, to the full extent of their abilities. The crops of our plains would no longer sustain European armies, nor our ships longer supply those whom war had rendered unable to supply themselves. It was obvious, that, under these circumstances, the country would begin to survey itself, and to estimate its own capacity of improvement.

And this improvement, — how was it to be accomplished, and who was to accomplish it? We were ten or twelve millions of people, spread over almost half a world. We were more than twenty States, some stretching along the same seaboard, some along the same line of inland frontier, and others on opposite banks of the same vast rivers. Two considerations at once presented themselves with great force, in looking at this state of things. One was, that that great branch of improvement which consisted in furnishing new facilities of intercourse necessarily ran into different States in every leading instance, and would benefit the citizens of all such States. No one State, therefore, in such cases, would assume the whole expense, nor was the coöperation of several States to be expected. Take the instance of the Delaware breakwater. It will cost several millions of money. Would Pennsylvania alone ever have constructed it? Certainly never, while this Union lasts, because it is not for her sole benefit. Would Pennsylvania, New Jersey, and Delaware have united to accomplish it at their joint expense? Certainly not, for the same reason. It could not be done, therefore, but by the general government. The same may be said of the large inland undertakings, except that, in them, government, instead of bearing the whole expense, coöperates with others who bear a part. The other consideration is, that the United States have the

means. They enjoy the revenues derived from commerce, and the States have no abundant and easy sources of public income. The custom-houses fill the general treasury, while the States have scanty resources, except by resort to heavy direct taxes.

Under this view of things, I thought it necessary to settle, at least for myself, some definite notions with respect to the powers of the government in regard to internal affairs. It may not savor too much of self-commendation to remark, that, with this object, I considered the Constitution, its judicial construction, its contemporaneous exposition, and the whole history of the legislation of Congress under it; and I arrived at the conclusion, that government had power to accomplish sundry objects, or aid in their accomplishment, which are now commonly spoken of as Internal Improvements. That conclusion, Sir, may have been right, or it may have been wrong. I am not about to argue the grounds of it at large. I say only, that it was adopted and acted on even so early as in 1816. Yes, Mr. President, I made up my opinion, and determined on my intended course of political conduct, on these subjects, in the Fourteenth Congress, in 1816. And now, Mr. President, I have further to say, that I made up these opinions, and entered on this course of political conduct, *Teucro duce.** Yes, Sir, I pursued in all this a South Carolina track on the doctrines of internal improvement. South Carolina, as she was then represented in the other house, set forth in 1816 under a fresh and leading breeze, and I was among the followers. But if my leader sees new lights and turns a sharp corner, unless I see new lights also, I keep straight on in the same path. I repeat, that leading gentlemen from South Carolina were first and foremost in behalf of the doctrines of internal improvements, when those doctrines came first to be considered and acted upon in Congress. The debate on the bank question, on the tariff of 1816, and on the direct tax, will show who was who, and what was what, at that time.

The tariff of 1816, (one of the plain cases of oppression and usurpation, from which, if the government does not recede, individual States may justly secede from the government,) is, Sir, in truth, a South Carolina tariff, supported by South Carolina

* Mr. Calhoun, when this speech was made, was President of the Senate, and Vice-President of the United States.

votes. But for those votes, it could not have passed in the form in which it did pass; whereas, if it had depended on Massachusetts votes, it would have been lost. Does not the honorable gentleman well know all this? There are certainly those who do, full well, know it all. I do not say this to reproach South Carolina. I only state the fact; and I think it will appear to be true, that among the earliest and boldest advocates of the tariff, as a measure of protection, and on the express ground of protection, were leading gentlemen of South Carolina in Congress. I did not then, and cannot now, understand their language in any other sense. While this tariff of 1816 was under discussion in the House of Representatives, an honorable gentleman from Georgia, now of this house,* moved to reduce the proposed duty on cotton. He failed, by four votes, South Carolina giving three votes (enough to have turned the scale) against his motion. The act, Sir, then passed, and received on its passage the support of a majority of the Representatives of South Carolina present and voting. This act is the first in the order of those now denounced as plain usurpations. We see it daily in the list, by the side of those of 1824 and 1828, as a case of manifest oppression, justifying disunion. I put it home to the honorable member from South Carolina, that his own State was not only "art and part" in this measure, but the *causa causans*. Without her aid, this seminal principle of mischief, this root of Upas, could not have been planted. I have already said, and it is true, that this act proceeded on the ground of protection. It interfered directly with existing interests of great value and amount. It cut up the Calcutta cotton trade by the roots, but it passed, nevertheless, and it passed on the principle of protecting manufactures, on the principle against free trade, on the principle opposed to that *which lets us alone*.†

Such, Mr. President, were the opinions of important and leading gentlemen from South Carolina, on the subject of internal improvement, in 1816. I went out of Congress the next year, and, returning again in 1823, thought I found South Carolina where I had left her. I really supposed that all things remained as they were, and that the South Carolina doctrine of internal improvements would be defended by the same eloquent voices,

* Mr. Forsyth.

† See Note B, at the end of the speech.

and the same strong arms, as formerly. In the lapse of these six years, it is true, political associations had assumed a new aspect and new divisions. A strong party had arisen in the South hostile to the doctrine of internal improvements. Anti-consolidation was the flag under which this party fought; and its supporters inveighed against internal improvements, much after the manner in which the honorable gentleman has now inveighed against them, as part and parcel of the system of consolidation. Whether this party arose in South Carolina itself, or in the neighborhood, is more than I know. I think the latter However that may have been, there were those found in South Carolina ready to make war upon it, and who did make intrepid war upon it. Names being regarded as things in such controversies, they bestowed on the anti-improvement gentlemen the appellation of Radicals. Yes, Sir, the appellation of Radicals, as a term of distinction applicable and applied to those who denied the liberal doctrines of internal improvement, originated, according to the best of my recollection, somewhere between North Carolina and Georgia. Well, Sir, these mischievous Radicals were to be put down, and the strong arm of South Carolina was stretched out to put them down. About this time I returned to Congress. The battle with the Radicals had been fought, and our South Carolina champions of the doctrines of internal improvement had nobly maintained their ground, and were understood to have achieved a victory. We looked upon them as conquerors. They had driven back the enemy with discomfiture, a thing, by the way, Sir, which is not always performed when it is promised. A gentleman to whom I have already referred in this debate had come into Congress, during my absence from it, from South Carolina, and had brought with him a high reputation for ability. He came from a school with which we had been acquainted, *et noscitur a sociis.* I hold in my hand, Sir, a printed speech of this distinguished gentleman,* "ON INTERNAL IMPROVEMENTS," delivered about the period to which I now refer, and printed with a few introductory remarks upon *consolidation;* in which, Sir, I think he quite consolidated the arguments of his opponents, the Radicals, if to *crush* be to consolidate. I give you a short but significant quotation from

* Mr. McDuffie.

these remarks. He is speaking of a pamphlet, then recently published, entitled "Consolidation"; and having alluded to the question of renewing the charter of the former Bank of the United States, he says:—

"Moreover, in the early history of parties, and when Mr. Crawford advocated a renewal of the old charter, it was considered a Federal measure; which internal improvement *never was*, as this author erroneously states. This latter measure originated in the administration of Mr. Jefferson, with the appropriation for the Cumberland Road; and was first proposed, *as a system*, by Mr. Calhoun, and carried through the House of Representatives by a large majority of the Republicans, including almost every one of the leading men who carried us through the late war."

So, then, internal improvement is not one of the Federal heresies. One paragraph more, Sir:—

"The author in question, not content with denouncing as Federalists, General Jackson, Mr. Adams, Mr. Calhoun, and the majority of the South Carolina delegation in Congress, modestly extends the denunciation to Mr. Monroe and the whole Republican party. Here are his words:—'During the administration of Mr. Monroe much has passed which the Republican party would be glad to approve if they could!! But the principal feature, and that which has chiefly elicited these observations, is the renewal of the System of Internal Improvements.' Now this measure was adopted by a vote of 115 to 86 of a Republican Congress, and sanctioned by a Republican President. Who, then, is this author, who assumes the high prerogative of denouncing, in the name of the Republican party, the Republican administration of the country? A denunciation including within its sweep *Calhoun, Lowndes, and Cheves,* men who will be regarded as the brightest ornaments of South Carolina, and the strongest pillars of the Republican party, as long as the late war shall be remembered, and talents and patriotism shall be regarded as the proper objects of the admiration and gratitude of a free people!!"

Such are the opinions, Sir, which were maintained by South Carolina gentlemen, in the House of Representatives, on the subject of internal improvements, when I took my seat there as a member from Massachusetts in 1823. But this is not all. We had a bill before us, and passed it in that house, entitled, "An Act to procure the necessary surveys, plans, and estimates upon the subject of roads and canals." It authorized the Pres-

ident to cause surveys and estimates to be made of the routes of such roads and canals as he might deem of national importance in a commercial or military point of view, or for the transportation of the mail, and appropriated thirty thousand dollars out of the treasury to defray the expense. This act, though preliminary in its nature, covered the whole ground. It took for granted the complete power of internal improvement, as far as any of its advocates had ever contended for it. Having passed the other house, the bill came up to the Senate, and was here considered and debated in April, 1824. The honorable member from South Carolina was a member of the Senate at that time. While the bill was under consideration here, a motion was made to add the following proviso: — "*Provided*, That nothing herein contained shall be construed to affirm *or admit* a power in Congress, on their own authority, to make roads or canals within any of the States of the Union." The yeas and nays were taken on this proviso, and the honorable member voted *in the negative!* The proviso failed.

A motion was then made to add this proviso, viz.: — "*Provided*, That the faith of the United States is hereby pledged, that no money shall ever be expended for roads or canals, except it shall be among the several States, and in the same proportion as direct taxes are laid and assessed by the provisions of the Constitution." The honorable member voted *against this proviso* also, and it failed. The bill was then put on its passage, and the honorable member voted *for it*, and it passed, and became a law.

Now, it strikes me, Sir, that there is no maintaining these votes, but upon the power of internal improvement, in its broadest sense. In truth, these bills for surveys and estimates have always been considered as test questions; they show who is for and who against internal improvement. This law itself went the whole length, and assumed the full and complete power. The gentleman's votes sustained that power, in every form in which the various propositions to amend presented it. He went for the entire and unrestrained authority, without consulting the States, and without agreeing to any proportionate distribution. And now suffer me to remind you, Mr. President, that it is this very same power, thus sanctioned, in every form, by the gentleman's own opinion, which is so plain and manifest a usurpation, that

the State of South Carolina is supposed to be justified in refusing submission to any laws carrying the power into effect. Truly, Sir, is not this a little too hard? May we not crave some mercy, under favor and protection of the gentleman's own authority? Admitting that a road, or a canal, must be written down flat usurpation as was ever committed, may we find no mitigation in our respect for his place, and his vote, as one that knows the law?

The tariff, which South Carolina had an efficient hand in establishing, in 1816, and this asserted power of internal improvement, advanced by her in the same year, and, as we have seen, approved and sanctioned by her Representatives in 1824, these two measures are the great grounds on which she is now thought to be justified in breaking up the Union, if she sees fit to break it up!

I may now safely say, I think, that we have had the authority of leading and distinguished gentlemen from South Carolina in support of the doctrine of internal improvement. I repeat, that, up to 1824, I for one followed South Carolina; but when that star, in its ascension, veered off in an unexpected direction, I relied on its light no longer.

Here the Vice-President said, "Does the chair understand the gentleman from Massachusetts to say that the person now occupying the chair of the Senate has changed his opinions on the subject of internal improvements?"

From nothing ever said to me, Sir, have I had reason to know of any change in the opinions of the person filling the chair of the Senate. If such change has taken place, I regret it. I speak generally of the State of South Carolina. Individuals we know there are, who hold opinions favorable to the power. An application for its exercise, in behalf of a public work in South Carolina itself, is now pending, I believe, in the other house, presented by members from that State.

I have thus, Sir, perhaps not without some tediousness of detail, shown, if I am in error on the subject of internal improvement, how, and in what company, I fell into that error. If I am wrong, it is apparent who misled me.

I go to other remarks of the honorable member; and I have to complain of an entire misapprehension of what I said on the

subject of the national debt, though I can hardly perceive how any one could misunderstand me. What I said was, not that I wished to put off the payment of the debt, but, on the contrary, that I had always voted for every measure for its reduction, as uniformly as the gentleman himself. He seems to claim the exclusive merit of a disposition to reduce the public charge. I do not allow it to him. As a debt, I was, I am for paying it, because it is a charge on our finances, and on the industry of the country. But I observed, that I thought I perceived a morbid fervor on that subject, an excessive anxiety to pay off the debt, not so much because it is a debt simply, as because, while it lasts, it furnishes one objection to disunion. It is, while it continues, a tie of common interest. I did not impute such motives to the honorable member himself, but that there is such a feeling in existence I have not a particle of doubt. The most I said was, that if one effect of the debt was to strengthen our Union, that effect itself was not regretted by me, however much others might regret it. The gentleman has not seen how to reply to this, otherwise than by supposing me to have advanced the doctrine that a national debt is a national blessing. Others, I must hope, will find much less difficulty in understanding me. I distinctly and pointedly cautioned the honorable member not to understand me as expressing an opinion favorable to the continuance of the debt. I repeated this caution, and repeated it more than once; but it was thrown away.

On yet another point, I was still more unaccountably misunderstood. The gentleman had harangued against "consolidation." I told him, in reply, that there was one kind of consolidation to which I was attached, and that was the consolidation of our Union; that this was precisely that consolidation to which I feared others were not attached, and that such consolidation was the very end of the Constitution, the leading object, as they had informed us themselves, which its framers had kept in view. I turned to their communication,* and read their very words, "the consolidation of the Union," and expressed my devotion to this sort of consolidation. I said, in terms, that I wished not in the slightest degree to augment the powers of this government; that my object was to preserve, not to enlarge;

* The letter of the Federal Convention to the Congress of the Confederation transmitting the plan of the Constitution.

and that by consolidating the Union I understood no more than the strengthening of the Union, and perpetuating it. Having been thus explicit, having thus read from the printed book the precise words which I adopted, as expressing my own sentiments, it passes comprehension how any man could understand me as contending for an extension of the powers of the government, or for consolidation in that odious sense in which it means an accumulation, in the federal government, of the powers properly belonging to the States.

I repeat, Sir, that, in adopting the sentiment of the framers of the Constitution, I read their language audibly, and word for word; and I pointed out the distinction, just as fully as I have now done, between the consolidation of the Union and that other obnoxious consolidation which I disclaimed. And yet the honorable member misunderstood me. The gentleman had said that he wished for no fixed revenue, — not a shilling. If by a word he could convert the Capitol into gold, he would not do it. Why all this fear of revenue? Why, Sir, because, as the gentleman told us, it tends to consolidation. Now this can mean neither more nor less than that a common revenue is a common interest, and that all common interests tend to preserve the union of the States. I confess I like that tendency; if the gentleman dislikes it, he is right in deprecating a shilling of fixed revenue. So much, Sir, for consolidation.

As well as I recollect the course of his remarks, the honorable gentleman next recurred to the subject of the tariff. He did not doubt the word must be of unpleasant sound to me, and proceeded, with an effort neither new nor attended with new success, to involve me and my votes in inconsistency and contradiction. I am happy the honorable gentleman has furnished me an opportunity of a timely remark or two on that subject. I was glad he approached it, for it is a question I enter upon without fear from any body. The strenuous toil of the gentleman has been to raise an inconsistency between my dissent to the tariff in 1824, and my vote in 1828. It is labor lost. He pays undeserved compliment to my speech in 1824; but this is to raise me high, that my fall, as he would have it, in 1828, may be more signal. Sir, there was no fall. Between the ground I stood on in 1824 and that I took in 1828, there was not only no precipice, but no declivity. It was a change of position to meet new

circumstances, but on the same level. A plain tale explains the whole matter. In 1816 I had not acquiesced in the tariff, then supported by South Carolina. To some parts of it, especially, I felt and expressed great repugnance. I held the same opinions in 1820, at the meeting in Faneuil Hall, to which the gentleman has alluded. I said then, and say now, that, as an original question, the authority of Congress to exercise the revenue power, with direct reference to the protection of manufactures, is a questionable authority, far more questionable, in my judgment, than the power of internal improvements. I must confess, Sir, that in one respect some impression has been made on my opinions lately. Mr. Madison's publication has put the power in a very strong light. He has placed it, I must acknowledge, upon grounds of construction and argument which seem impregnable. But even if the power were doubtful, on the face of the Constitution itself, it had been assumed and asserted in the first revenue law ever passed under that same Constitution; and on this ground, as a matter settled by contemporaneous practice, I had refrained from expressing the opinion that the tariff laws transcended constitutional limits, as the gentleman supposes. What I did say at Faneuil Hall, as far as I now remember, was, that this was originally matter of doubtful construction. The gentleman himself, I suppose, thinks there is no doubt about it, and that the laws are plainly against the Constitution. Mr. Madison's letters, already referred to, contain, in my judgment, by far the most able exposition extant of this part of the Constitution. He has satisfied me, so far as the practice of the government had left it an open question.

With a great majority of the Representatives of Massachusetts, I voted against the tariff of 1824. My reasons were then given, and I will not now repeat them. But, notwithstanding our dissent, the great States of New York, Pennsylvania, Ohio, and Kentucky went for the bill, in almost unbroken column, and it passed. Congress and the President sanctioned it, and it became the law of the land. What, then, were we to do? Our only option was, either to fall in with this settled course of public policy, and accommodate ourselves to it as well as we could, or to embrace the South Carolina doctrine, and talk of nullifying the statute by State interference.

This last alternative did not suit our principles, and of course

we adopted the former. In 1827, the subject came again before Congress, on a proposition to afford some relief to the branch of wool and woollens. We looked upon the system of protection as being fixed and settled. The law of 1824 remained. It had gone into full operation, and, in regard to some objects intended by it, perhaps most of them, had produced all its expected effects. No man proposed to repeal it; no man attempted to renew the general contest on its principle. But, owing to subsequent and unforeseen occurrences, the benefit intended by it to wool and woollen fabrics had not been realized. Events not known here when the law passed had taken place, which defeated its object in that particular respect. A measure was accordingly brought forward to meet this precise deficiency, to remedy this particular defect. It was limited to wool and woollens. Was ever any thing more reasonable? If the policy of the tariff laws had become established in principle, as the permanent policy of the government, should they not be revised and amended, and made equal, like other laws, as exigencies should arise, or justice require? Because we had doubted about adopting the system, were we to refuse to cure its manifest defects, after it had been adopted, and when no one attempted its repeal? And this, Sir, is the inconsistency so much bruited. I had voted against the tariff of 1824, but it passed; and in 1827 and 1828, I voted to amend it, in a point essential to the interest of my constituents. Where is the inconsistency? Could I do otherwise? Sir, does political consistency consist in always giving negative votes? Does it require of a public man to refuse to concur in amending laws, because they passed against his consent? Having voted against the tariff originally, does consistency demand that I should do all in my power to maintain an unequal tariff, burdensome to my own constituents in many respects, favorable in none? To consistency of that sort, I lay no claim. And there is another sort to which I lay as little, and that is, a kind of consistency by which persons feel themselves as much bound to oppose a proposition after it has become a law of the land as before.

The bill of 1827, limited, as I have said, to the single object in which the tariff of 1824 had manifestly failed in its effect, passed the House of Representatives, but was lost here. We

had then the act of 1828. I need not recur to the history of a measure so recent. Its enemies spiced it with whatsoever they thought would render it distasteful; its friends took it, drugged as it was. Vast amounts of property, many millions, had been invested in manufactures, under the inducements of the act of 1824. Events called loudly, as I thought, for further regulation to secure the degree of protection intended by that act. I was disposed to vote for such regulation, and desired nothing more; but certainly was not to be bantered out of my purpose by a threatened augmentation of duty on molasses, put into the bill for the avowed purpose of making it obnoxious. The vote may have been right or wrong, wise or unwise; but it is little less than absurd to allege against it an inconsistency with opposition to the former law.

Sir, as to the general subject of the tariff, I have little now to say. Another opportunity may be presented. I remarked the other day, that this policy did not begin with us in New England; and yet, Sir, New England is charged with vehemence as being favorable, or charged with equal vehemence as being unfavorable, to the tariff policy, just as best suits the time, place, and occasion for making some charge against her. The credulity of the public has been put to its extreme capacity of false impression relative to her conduct in this particular. Through all the South, during the late contest, it was New England policy and a New England administration that were afflicting the country with a tariff beyond all endurance; while on the other side of the Alleghanies even the act of 1828 itself, the very sublimated essence of oppression, according to Southern opinions, was pronounced to be one of those blessings for which the West was indebted to the "generous South."

With large investments in manufacturing establishments, and many and various interests connected with and dependent on them, it is not to be expected that New England, any more than other portions of the country, will now consent to any measure destructive or highly dangerous. The duty of the government, at the present moment, would seem to be to preserve, not to destroy; to maintain the position which it has assumed; and, for one, I shall feel it an indispensable obligation to hold it steady, as far as in my power, to that degree of protection which it has undertaken to bestow. No more of the tariff

Professing to be provoked by what he chose to consider a charge made by me against South Carolina, the honorable member, Mr. President, has taken up a new crusade against New England. Leaving altogether the subject of the public lands, in which his success, perhaps, had been neither distinguished nor satisfactory, and letting go, also, of the topic of the tariff, he sallied forth in a general assault on the opinions, politics, and parties of New England, as they have been exhibited in the last thirty years. This is natural. The "narrow policy" of the public lands had proved a legal settlement in South Carolina, and was not to be removed. The "accursed policy" of the tariff, also, had established the fact of its birth and parentage in the same State. No wonder, therefore, the gentleman wished to carry the war, as he expressed it, into the enemy's country. Prudently willing to quit these subjects, he was, doubtless, desirous of fastening on others, which could not be transferred south of Mason and Dixon's line. The politics of New England became his theme; and it was in this part of his speech, I think, that he menaced me with such sore discomfiture. Discomfiture! Why, Sir, when he attacks any thing which I maintain, and overthrows it, when he turns the right or left of any position which I take up, when he drives me from any ground I choose to occupy, he may then talk of discomfiture, but not till that distant day. What has he done? Has he maintained his own charges? Has he proved what he alleged? Has he sustained himself in his attack on the government, and on the history of the North, in the matter of the public lands? Has he disproved a fact, refuted a proposition, weakened an argument, maintained by me? Has he come within beat of drum of any position of mine? O, no; but he has "carried the war into the enemy's country"! Carried the war into the enemy's country! Yes, Sir, and what sort of a war has he made of it? Why, Sir, he has stretched a drag-net over the whole surface of perished pamphlets, indiscreet sermons, frothy paragraphs, and fuming popular addresses; over whatever the pulpit in its moments of alarm, the press in its heats, and parties in their extravagance, have severally thrown off in times of general excitement and violence. He has thus swept together a mass of such things as, but that they are now old and cold, the public health would have required him rather to leave in their state of dispersion.

For a good long hour or two, we had the unbroken pleasure of listening to the honorable member, while he recited with his usual grace and spirit, and with evident high gusto, speeches, pamphlets, addresses, and all the *et cæteras* of the political press, such as warm heads produce in warm times; and such as it would be "discomfiture" indeed for any one, whose taste did not delight in that sort of reading, to be obliged to peruse. This is his war. This it is to carry war into the enemy's country. It is in an invasion of this sort, that he flatters himself with the expectation of gaining laurels fit to adorn a Senator's brow!

Mr. President, I shall not, it will not, I trust, be expected that I should, either now or at any time, separate this farrago into parts, and answer and examine its components. I shall barely bestow upon it all a general remark or two. In the run of forty years, Sir, under this Constitution, we have experienced sundry successive violent party contests. Party arose, indeed, with the Constitution itself, and, in some form or other, has attended it through the greater part of its history. Whether any other constitution than the old Articles of Confederation was desirable, was itself a question on which parties divided; if a new constitution were framed, what powers should be given to it was another question; and when it had been formed, what was, in fact, the just extent of the powers actually conferred was a third. Parties, as we know, existed under the first administration, as distinctly marked as those which have manifested themselves at any subsequent period. The contest immediately preceding the political change in 1801, and that, again, which existed at the commencement of the late war, are other instances of party excitement, of something more than usual strength and intensity. In all these conflicts there was, no doubt, much of violence on both and all sides. It would be impossible, if one had a fancy for such employment, to adjust the relative *quantum* of violence between these contending parties. There was enough in each, as must always be expected in popular governments. With a great deal of popular and decorous discussion, there was mingled a great deal, also, of declamation, virulence, crimination, and abuse. In regard to any party, probably, at one of the leading epochs in the history of parties, enough may be found to make out another inflamed exhibition, not unlike that with which the honorable member

has edified us. For myself, Sir, I shall not rake among the rubbish of bygone times, to see what I can find, or whether I cannot find something by which I can fix a blot on the escutcheon of any State, any party, or any part of the country. General Washington's administration was steadily and zealously maintained, as we all know, by New England. It was violently opposed elsewhere. We know in what quarter he had the most earnest, constant, and persevering support, in all his great and leading measures. We know where his private and personal character was held in the highest degree of attachment and veneration; and we know, too, where his measures were opposed, his services slighted, and his character vilified. We know, or we might know, if we turned to the journals, who expressed respect, gratitude, and regret, when he retired from the chief magistracy, and who refused to express either respect, gratitude, or regret. I shall not open those journals. Publications more abusive or scurrilous never saw the light, than were sent forth against Washington, and all his leading measures, from presses south of New England. But I shall not look them up. I employ no scavengers, no one is in attendance on me, furnishing such means of retaliation; and if there were, with an ass's load of them, with a bulk as huge as that which the gentleman himself has produced, I would not touch one of them. I see enough of the violence of our own times, to be no way anxious to rescue from forgetfulness the extravagances of times past.

Besides, what is all this to the present purpose? It has nothing to do with the public lands, in regard to which the attack was begun; and it has nothing to do with those sentiments and opinions which, I have thought, tend to disunion, and all of which the honorable member seems to have adopted himself, and undertaken to defend. New England has, at times, so argues the gentleman, held opinions as dangerous as those which he now holds. Suppose this were so; why should *he* therefore abuse New England? If he finds himself countenanced by acts of hers, how is it that, while he relies on these acts, he covers, or seeks to cover, their authors with reproach? But, Sir, if, in the course of forty years, there have been undue effervescences of party in New England, has the same thing happened nowhere else? Party animosity and party outrage, not in New England, but elsewhere, denounced President Wash-

ington, not only as a Federalist, but as a Tory, a British agent, a man who in his high office sanctioned corruption. But does the honorable member suppose, if I had a tender here who should put such an effusion of wickedness and folly into my hand, that I would stand up and read it against the South? Parties ran into great heats again in 1799 and 1800. What was said, Sir, or rather what was not said, in those years, against John Adams, one of the committee that drafted the Declaration of Independence, and its admitted ablest defender on the floor of Congress? If the gentleman wishes to increase his stores of party abuse and frothy violence, if he has a determined proclivity to such pursuits, there are treasures of that sort south of the Potomac, much to his taste, yet untouched. I shall not touch them.

The parties which divided the country at the commencement of the late war were violent. But then there was violence on both sides, and violence in every State. Minorities and majorities were equally violent. There was no more violence against the war in New England, than in other States; nor any more appearance of violence, except that, owing to a dense population, greater facility of assembling, and more presses, there may have been more in quantity spoken and printed there than in some other places. In the article of sermons, too, New England is somewhat more abundant than South Carolina; and for that reason the chance of finding here and there an exceptionable one may be greater. I hope, too, there are more good ones. Opposition may have been more formidable in New England, as it embraced a larger portion of the whole population; but it was no more unrestrained in principle, or violent in manner. The minorities dealt quite as harshly with their own State governments as the majorities dealt with the administration here. There were presses on both sides, popular meetings on both sides, ay, and pulpits on both sides also. The gentleman's purveyors have only catered for him among the productions of one side. I certainly shall not supply the deficiency by furnishing samples of the other. I leave to him, and to them, the whole concern.

It is enough for me to say, that if, in any part of this their grateful occupation, if, in all their researches, they find any thing in the history of Massachusetts, or New England, or in

the proceedings of any legislative or other public body, disloyal to the Union, speaking slightingly of its value, proposing to break it up, or recommending non-intercourse with neighboring States, on account of difference of political opinion, then, Sir, I give them all up to the honorable gentleman's unrestrained rebuke; expecting, however, that he will extend his buffetings in like manner *to all similar proceedings, wherever else found.*

The gentleman, Sir, has spoken at large of former parties, now no longer in being, by their received appellations, and has undertaken to instruct us, not only in the knowledge of their principles, but of their respective pedigrees also. He has ascended to their origin, and run out their genealogies. With most exemplary modesty, he speaks of the party to which he professes to have himself belonged, as the true Pure, the only honest, patriotic party, derived by regular descent, from father to son, from the time of the virtuous Romans! Spreading before us the *family tree* of political parties, he takes especial care to show himself snugly perched on a popular bough! He is wakeful to the expediency of adopting such rules of descent as shall bring him in, to the exclusion of others, as an heir to the inheritance of all public virtue and all true political principle. His party and his opinions are sure to be orthodox; heterodoxy is confined to his opponents. He spoke, Sir, of the Federalists, and I thought I saw some eyes begin to open and stare a little, when he ventured on that ground. I expected he would draw his sketches rather lightly, when he looked on the circle round him, and especially if he should cast his thoughts to the high places out of the Senate. Nevertheless, he went back to Rome, *ad annum urbis conditæ*, and found the fathers of the Federalists in the primeval aristocrats of that renowned city! He traced the flow of Federal blood down through successive ages and centuries, till he brought it into the veins of the American Tories, of whom, by the way, there were twenty in the Carolinas for one in Massachusetts. From the Tories he followed it to the Federalists; and, as the Federal party was broken up, and there was no possibility of transmitting it further on this side the Atlantic, he seems to have discovered that it has gone off collaterally, though against all the canons of descent, into the Ultras of France, and finally become extinguished, like exploded gas, among the adherents of Don Miguel! This, Sir, is an abstract of the gentleman's his-

tory of Federalism. I am not about to controvert it. It is not, at present, worth the pains of refutation; because, Sir, if at this day any one feels the sin of Federalism lying heavily on his conscience, he can easily procure remission. He may even obtain an indulgence, if he be desirous of repeating the same transgression. It is an affair of no difficulty to get into this same right line of patriotic descent. A man now-a-days is at liberty to choose his political parentage. He may elect his own father. Federalist or not, he may, if he choose, claim to belong to the favored stock, and his claim will be allowed. He may carry back his pretensions just as far as the honorable gentleman himself; nay, he may make himself out the honorable gentleman's cousin, and prove, satisfactorily, that he is descended from the same political great-grandfather. All this is allowable. We all know a process, Sir, by which the whole Essex Junto could, in one hour, be all washed white from their ancient Federalism, and come out, every one of them, original Democrats, dyed in the wool! Some of them have actually undergone the operation, and they say it is quite easy. The only inconvenience it occasions, as they tell us, is a slight tendency of the blood to the face, a soft suffusion, which, however, is very transient, since nothing is said by those whom they join calculated to deepen the red on the cheek, but a prudent silence is observed in regard to all the past. Indeed, Sir, some smiles of approbation have been bestowed, and some crumbs of comfort have fallen, not a thousand miles from the door of the Hartford Convention itself. And if the author of the Ordinance of 1787 possessed the other requisite qualifications, there is no knowing, notwithstanding his Federalism, to what heights of favor he might not yet attain.

Mr. President, in carrying his warfare, such as it is, into New England, the honorable gentleman all along professes to be acting on the defensive. He chooses to consider me as having assailed South Carolina, and insists that he comes forth only as her champion, and in her defence. Sir, I do not admit that I made any attack whatever on South Carolina. Nothing like it. The honorable member, in his first speech, expressed opinions, in regard to revenue and some other topics, which I heard both with pain and with surprise. I told the gentleman I was aware that such sentiments were entertained *out* of the government, but had

not expected to find them advanced in it; that I knew there were persons in the South who speak of our Union with indifference or doubt, taking pains to magnify its evils, and to say nothing of its benefits; that the honorable member himself, I was sure, could never be one of these; and I regretted the expression of such opinions as he had avowed, because I thought their obvious tendency was to encourage feelings of disrespect to the Union, and to impair its strength. This, Sir, is the sum and substance of all I said on the subject. And this constitutes the attack which called on the chivalry of the gentleman, in his own opinion, to harry us with such a foray among the party pamphlets and party proceedings of Massachusetts! If he means that I spoke with dissatisfaction or disrespect of the ebullitions of individuals in South Carolina, it is true. But if he means that I assailed the character of the State, her honor, or patriotism, that I reflected on her history or her conduct, he has not the slightest ground for any such assumption. I did not even refer, I think, in my observations, to any collection of individuals. I said nothing of the recent conventions. I spoke in the most guarded and careful manner, and only expressed my regret for the publication of opinions, which I presumed the honorable member disapproved as much as myself. In this, it seems, I was mistaken. I do not remember that the gentleman has disclaimed any sentiment, or any opinion, of a supposed anti-union tendency, which on all or any of the recent occasions has been expressed. The whole drift of his speech has been rather to prove, that, in divers times and manners, sentiments equally liable to my objection have been avowed in New England. And one would suppose that his object, in this reference to Massachusetts, was to find a precedent to justify proceedings in the South, were it not for the reproach and contumely with which he labors, all along, to load these his own chosen precedents. By way of defending South Carolina from what he chooses to think an attack on her, he first quotes the example of Massachusetts, and then denounces that example in good set terms. This twofold purpose, not very consistent, one would think, with itself, was exhibited more than once in the course of his speech. He referred, for instance, to the Hartford Convention. Did he do this for authority, or for a topic of reproach? Apparently for both, for he told us that he should find no fault with the mere

fact of holding such a convention, and considering and discussing such questions as he supposes were then and there discussed; but what rendered it obnoxious was its being held at the time, and under the circumstances of the country then existing. We were in a war, he said, and the country needed all our aid; the hand of government required to be strengthened, not weakened; and patriotism should have postponed such proceedings to another day. The thing itself, then, is a precedent; the time and manner of it only, a subject of censure.

Now, Sir, I go much further, on this point, than the honorable member. Supposing, as the gentleman seems to do, that the Hartford Convention assembled for any such purpose as breaking up the Union, because they thought unconstitutional laws had been passed, or to consult on that subject, or *to calculate the value of the Union;* supposing this to be their purpose, or any part of it, then I say the meeting itself was disloyal, and was obnoxious to censure, whether held in time of peace or time of war, or under whatever circumstances. The material question is the *object.* Is dissolution the *object?* If it be, external circumstances may make it a more or less aggravated case, but cannot affect the principle. I do not hold, therefore, Sir, that the Hartford Convention was pardonable, even to the extent of the gentleman's admission, if its objects were really such as have been imputed to it. Sir, there never was a time, under any degree of excitement, in which the Hartford Convention, or any other convention, could have maintained itself one moment in New England, if assembled for any such purpose as the gentleman says would have been an allowable purpose. To hold conventions to decide constitutional law! To try the binding validity of statutes by votes in a convention! Sir, the Hartford Convention, I presume, would not desire that the honorable gentleman should be their defender or advocate, if he puts their case upon such untenable and extravagant grounds.

Then, Sir, the gentleman has no fault to find with these recently promulgated South Carolina opinions. And certainly he need have none; for his own sentiments, as now advanced, and advanced on reflection, as far as I have been able to comprehend them, go the full length of all these opinions. I propose, Sir, to say something on these, and to consider how far they are just and constitutional. Before doing that, however, let me ob-

serve that the eulogium pronounced by the honorable gentleman on the character of the State of South Carolina, for her Revolutionary and other merits, meets my hearty concurrence. I shall not acknowledge that the honorable member goes before me in regard for whatever of distinguished talent, or distinguished character, South Carolina has produced. I claim part of the honor, I partake in the pride, of her great names. I claim them for countrymen, one and all, the Laurenses, the Rutledges, the Pinckneys, the Sumpters, the Marions, Americans all, whose fame is no more to be hemmed in by State lines, than their talents and patriotism were capable of being circumscribed within the same narrow limits. In their day and generation, they served and honored the country, and the whole country; and their renown is of the treasures of the whole country. Him whose honored name the gentleman himself bears, — does he esteem me less capable of gratitude for his patriotism, or sympathy for his sufferings, than if his eyes had first opened upon the light of Massachusetts, instead of South Carolina? Sir, does he suppose it in his power to exhibit a Carolina name so bright, as to produce envy in my bosom? No, Sir, increased gratification and delight, rather. I thank God, that, if I am gifted with little of the spirit which is able to raise mortals to the skies, I have yet none, as I trust, of that other spirit, which would drag angels down. When I shall be found, Sir, in my place here in the Senate, or elsewhere, to sneer at public merit, because it happens to spring up beyond the little limits of my own State or neighborhood; when I refuse, for any such cause, or for any cause, the homage due to American talent, to elevated patriotism, to sincere devotion to liberty and the country; or, if I see an uncommon endowment of Heaven, if I see extraordinary capacity and virtue, in any son of the South, and if, moved by local prejudice or gangrened by State jealousy, I get up here to abate the tithe of a hair from his just character and just fame, may my tongue cleave to the roof of my mouth!

Sir, let me recur to pleasing recollections; let me indulge in refreshing remembrance of the past; let me remind you that, in early times, no States cherished greater harmony, both of principle and feeling, than Massachusetts and South Carolina. Would to God that harmony might again return! Shoulder to shoulder they went through the Revolution, hand in hand they stood

round the administration of Washington, and felt his own great arm lean on them for support. Unkind feeling, if it exist, alienation, and distrust are the growth, unnatural to such soils, of false principles since sown. They are weeds, the seeds of which that same great arm never scattered.

Mr. President, I shall enter on no encomium upon Massachusetts; she needs none. There she is. Behold her, and judge for yourselves. There is her history; the world knows it by heart. The past, at least, is secure. There is Boston, and Concord, and Lexington, and Bunker Hill; and there they will remain for ever. The bones of her sons, falling in the great struggle for Independence, now lie mingled with the soil of every State from New England to Georgia; and there they will lie for ever. And Sir, where American Liberty raised its first voice, and where its youth was nurtured and sustained, there it still lives, in the strength of its manhood and full of its original spirit. If discord and disunion shall wound it, if party strife and blind ambition shall hawk at and tear it, if folly and madness, if uneasiness under salutary and necessary restraint, shall succeed in separating it from that Union, by which alone its existence is made sure, it will stand, in the end, by the side of that cradle in which its infancy was rocked; it will stretch forth its arm with whatever of vigor it may still retain over the friends who gather round it; and it will fall at last, if fall it must, amidst the proudest monuments of its own glory, and on the very spot of its origin.

There yet remains to be performed, Mr. President, by far the most grave and important duty, which I feel to be devolved on me by this occasion. It is to state, and to defend, what I conceive to be the true principles of the Constitution under which we are here assembled. I might well have desired that so weighty a task should have fallen into other and abler hands. I could have wished that it should have been executed by those whose character and experience give weight and influence to their opinions, such as cannot possibly belong to mine. But, Sir, I have met the occasion, not sought it; and I shall proceed to state my own sentiments, without challenging for them any particular regard, with studied plainness, and as much precision as possible.

I understand the honorable gentleman from South Carolina to maintain, that it is a right of the State legislatures to interfere, whenever, in their judgment, this government transcends its constitutional limits, and to arrest the operation of its laws.

I understand him to maintain this right, as a right existing *under* the Constitution, not as a right to overthrow it on the ground of extreme necessity, such as would justify violent revolution.

I understand him to maintain an authority, on the part of the States, thus to interfere, for the purpose of correcting the exercise of power by the general government, of checking it, and of compelling it to conform to their opinion of the extent of its powers.

I understand him to maintain, that the ultimate power of judging of the constitutional extent of its own authority is not lodged exclusively in the general government, or any branch of it; but that, on the contrary, the States may lawfully decide for themselves, and each State for itself, whether, in a given case, the act of the general government transcends its power.

I understand him to insist, that, if the exigency of the case, in the opinion of any State government, require it, such State government may, by its own sovereign authority, annul an act of the general government which it deems plainly and palpably unconstitutional.

This is the sum of what I understand from him to be the South Carolina doctrine, and the doctrine which he maintains. I propose to consider it, and compare it with the Constitution. Allow me to say, as a preliminary remark, that I call this the South Carolina doctrine only because the gentleman himself has so denominated it. I do not feel at liberty to say that South Carolina, as a State, has ever advanced these sentiments. I hope she has not, and never may. That a great majority of her people are opposed to the tariff laws, is doubtless true. That a majority, somewhat less than that just mentioned, conscientiously believe these laws unconstitutional, may probably also be true. But that any majority holds to the right of direct State interference at State discretion, the right of nullifying acts of Congress by acts of State legislation, is more than I know, and what I shall be slow to believe.

That there are individuals besides the honorable gentleman

who do maintain these opinions, is quite certain. I recollect the recent expression of a sentiment, which circumstances attending its utterance and publication justify us in supposing was not unpremeditated. "The sovereignty of the State, — never to be controlled, construed, or decided on, but by her own feelings of honorable justice."

Mr. Hayne here rose and said, that, for the purpose of being clearly understood, he would state that his proposition was in the words of the Virginia resolution, as follows: —

"That this assembly doth explicitly and peremptorily declare, that it views the powers of the federal government, as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no farther valid than they are authorized by the grants enumerated in that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the States who are parties thereto have the right, and are in duty bound, to interpose, for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them."

Mr. Webster resumed: —

I am quite aware, Mr. President, of the existence of the resolution which the gentleman read, and has now repeated, and that he relies on it as his authority. I know the source, too, from which it is understood to have proceeded. I need not say that I have much respect for the constitutional opinions of Mr. Madison; they would weigh greatly with me always. But before the authority of his opinion be vouched for the gentleman's proposition, it will be proper to consider what is the fair interpretation of that resolution, to which Mr. Madison is understood to have given his sanction. As the gentleman construes it, it is an authority for him. Possibly, he may not have adopted the right construction. That resolution declares, that, *in the case of the dangerous exercise of powers not granted by the general government, the States may interpose to arrest the progress of the evil.* But how interpose, and what does this declaration purport? Does it mean no more than that there may be extreme cases, in which the people, in any mode of assembling, may resist usurpation, and relieve themselves from a tyrannical government? No one will deny this. Such resistance is not only

acknowledged to be just in America, but in England also Blackstone admits as much, in the theory, and practice, too, of the English constitution. We, Sir, who oppose the Carolina doctrine, do not deny that the people may, if they choose, throw off any government when it becomes oppressive and intolerable, and erect a better in its stead. We all know that civil institutions are established for the public benefit, and that when they cease to answer the ends of their existence they may be changed. But I do not understand the doctrine now contended for to be that, which, for the sake of distinction, we may call the right of revolution. I understand the gentleman to maintain, that, without revolution, without civil commotion, without rebellion, a remedy for supposed abuse and transgression of the powers of the general government lies in a direct appeal to the interference of the State governments.

Mr. Hayne here rose and said: He did not contend for the mere right of revolution, but for the right of constitutional resistance. What he maintained was, that in case of a plain, palpable violation of the Constitution by the general government, a State may interpose; and that this interposition is constitutional.

Mr. Webster resumed: —

So, Sir, I understood the gentleman, and am happy to find that I did not misunderstand him. What he contends for is, that it is constitutional to interrupt the administration of the Constitution itself, in the hands of those who are chosen and sworn to administer it, by the direct interference, in form of law, of the States, in virtue of their sovereign capacity. The inherent right in the people to reform their government I do not deny; and they have another right, and that is, to resist unconstitutional laws, without overturning the government. It is no doctrine of mine that unconstitutional laws bind the people. The great question is, Whose prerogative is it to decide on the constitutionality or unconstitutionality of the laws? On that, the main debate hinges. The proposition, that, in case of a supposed violation of the Constitution by Congress, the States have a constitutional right to interfere and annul the law of Congress, is the proposition of the gentleman. I do not admit it. If the gentleman had intended no more than to assert the right of revolution for justifiable cause, he would have said only what all agree to. But I cannot conceive that there can be a

middle course, between submission to the laws, when regularly pronounced constitutional, on the one hand, and open resistance, which is revolution or rebellion, on the other. I say, the right of a State to annul a law of Congress cannot be maintained, but on the ground of the inalienable right of man to resist oppression; that is to say, upon the ground of revolution. I admit that there is an ultimate violent remedy, above the Constitution and in defiance of the Constitution, which may be resorted to when a revolution is to be justified. But I do not admit, that, under the Constitution and in conformity with it, there is any mode in which a State government, as a member of the Union, can interfere and stop the progress of the general government, by force of her own laws, under any circumstances whatever.

This leads us to inquire into the origin of this government and the source of its power. Whose agent is it? Is it the creature of the State legislatures, or the creature of the people? If the government of the United States be the agent of the State governments, then they may control it, provided they can agree in the manner of controlling it; if it be the agent of the people, then the people alone can control it, restrain it, modify, or reform it. It is observable enough, that the doctrine for which the honorable gentleman contends leads him to the necessity of maintaining, not only that this general government is the creature of the States, but that it is the creature of each of the States severally, so that each may assert the power for itself of determining whether it acts within the limits of its authority. It is the servant of four-and-twenty masters, of different wills and different purposes, and yet bound to obey all. This absurdity (for it seems no less) arises from a misconception as to the origin of this government and its true character. It is, Sir, the people's Constitution, the people's government, made for the people, made by the people, and answerable to the people. The people of the United States have declared that this Constitution shall be the supreme law. We must either admit the proposition, or dispute their authority. The States are, unquestionably, sovereign, so far as their sovereignty is not affected by this supreme law. But the State legislatures, as political bodies, however sovereign, are yet not sovereign over the people. So far as the people have given power to the general government, so far the grant is unquestionably good, and the government

holds of the people, and not of the State governments We are all agents of the same supreme power, the people. The general government and the State governments derive their authority from the same source. Neither can, in relation to the other, be called primary, though one is definite and restricted, and the other general and residuary. The national government possesses those powers which it can be shown the people have conferred on it, and no more. All the rest belongs to the State governments, or to the people themselves. So far as the people have restrained State sovereignty, by the expression of their will, in the Constitution of the United States, so far, it must be admitted, State sovereignty is effectually controlled. I do not contend that it is, or ought to be, controlled farther. The sentiment to which I have referred propounds that State sovereignty is only to be controlled by its own "feeling of justice"; that is to say, it is not to be controlled at all, for one who is to follow his own feelings is under no legal control. Now, however men may think this ought to be, the fact is, that the people of the United States have chosen to impose control on State sovereignties. There are those, doubtless, who wish they had been left without restraint; but the Constitution has ordered the matter differently. To make war, for instance, is an exercise of sovereignty; but the Constitution declares that no State shall make war To coin money is another exercise of sovereign power; but no State is at liberty to coin money. Again, the Constitution says that no sovereign State shall be so sovereign as to make a treaty. These prohibitions, it must be confessed, are a control on the State sovereignty of South Carolina, as well as of the other States, which does not arise "from her own feelings of honorable justice." The opinion referred to, therefore, is in defiance of the plainest provisions of the Constitution.

There are other proceedings of public bodies which have already been alluded to, and to which I refer again, for the purpose of ascertaining more fully what is the length and breadth of that doctrine, denominated the Carolina doctrine, which the honorable member has now stood up on this floor to maintain. In one of them I find it resolved, that "the tariff of 1828, and every other tariff designed to promote one branch of industry at the expense of others, is contrary to the meaning and intention of the federal compact; and such a dangerous, palpable, and

deliberate usurpation of power, by a determined majority, wielding the general government beyond the limits of its delegated powers, as calls upon the States which compose the suffering minority, in their sovereign capacity, to exercise the powers which, as sovereigns, necessarily devolve upon them, when their compact is violated."

Observe, Sir, that this resolution holds the tariff of 1828, and every other tariff designed to promote one branch of industry at the expense of another, to be such a dangerous, palpable, and deliberate usurpation of power, as calls upon the States, in their sovereign capacity, to interfere by their own authority. This denunciation, Mr. President, you will please to observe, includes our old tariff of 1816, as well as all others; because that was established to promote the interest of the manufacturers of cotton, to the manifest and admitted injury of the Calcutta cotton trade. Observe, again, that all the qualifications are here rehearsed and charged upon the tariff, which are necessary to bring the case within the gentleman's proposition. The tariff is a usurpation; it is a dangerous usurpation; it is a palpable usurpation; it is a deliberate usurpation. It is such a usurpation, therefore, as calls upon the States to exercise their right of interference. Here is a case, then, within the gentleman's principles, and all his qualifications of his principles. It is a case for action. The Constitution is plainly, dangerously, palpably, and deliberately violated; and the States must interpose their own authority to arrest the law. Let us suppose the State of South Carolina to express this same opinion, by the voice of her legislature. That would be very imposing; but what then? Is the voice of one State conclusive? It so happens that, at the very moment when South Carolina resolves that the tariff laws are unconstitutional, Pennsylvania and Kentucky resolve exactly the reverse. *They* hold those laws to be both highly proper and strictly constitutional. And now, Sir, how does the honorable member propose to deal with this case? How does he relieve us from this difficulty, upon any principle of his? His construction gets us into it; how does he propose to get us out?

In Carolina, the tariff is a palpable, deliberate usurpation; Carolina, therefore, may nullify it, and refuse to pay the duties. In Pennsylvania, it is both clearly constitutional and highly ex-

pedient; and there the duties are to be paid. And yet we live under a government of uniform laws, and under a Constitution too, which contains an express provision, as it happens, that all duties shall be equal in all the States. Does not this approach absurdity?

If there be no power to settle such questions, independent of either of the States, is not the whole Union a rope of sand? Are we not thrown back again, precisely, upon the old Confederation?

It is too plain to be argued. Four-and-twenty interpreters of constitutional law, each with a power to decide for itself, and none with authority to bind any body else, and this constitutional law the only bond of their union! What is such a state of things but a mere connection during pleasure, or, to use the phraseology of the times, *during feeling?* And that feeling, too, not the feeling of the people, who established the Constitution, but the feeling of the State governments.

In another of the South Carolina addresses, having premised that the crisis requires "all the concentrated energy of passion," an attitude of open resistance to the laws of the Union is advised. Open resistance to the laws, then, is the constitutional remedy, the conservative power of the State, which the South Carolina doctrines teach for the redress of political evils, real or imaginary. And its authors further say, that, appealing with confidence to the Constitution itself, to justify their opinions, they cannot consent to try their accuracy by the courts of justice. In one sense, indeed, Sir, this is assuming an attitude of open resistance in favor of liberty. But what sort of liberty? The liberty of establishing their own opinions, in defiance of the opinions of all others; the liberty of judging and of deciding exclusively themselves, in a matter in which others have as much right to judge and decide as they; the liberty of placing their own opinions above the judgment of all others, above the laws, and above the Constitution. This is their liberty, and this is the fair result of the proposition contended for by the honorable gentleman. Or, it may be more properly said, it is identical with it, rather than a result from it.

In the same publication we find the following:—"Previously to our Revolution, when the arm of oppression was stretched over New England, where did our Northern brethren meet with

a braver sympathy than that which sprung from the bosoms of Carolinians? We had no extortion, no oppression, no collision with the king's ministers, no navigation interests springing up, in envious rivalry of England."

This seems extraordinary language. South Carolina no collision with the king's ministers in 1775! No extortion! No oppression! But, Sir, it is also most significant language. Does any man doubt the purpose for which it was penned? Can any one fail to see that it was designed to raise in the reader's mind the question, whether, *at this time*, — that is to say, in 1828, — South Carolina has any collision with the king's ministers, any oppression, or extortion, to fear from England? whether, in short, England is not as naturally the friend of South Carolina as New England, with her navigation interests springing up in envious rivalry of England?

Is it not strange, Sir, that an intelligent man in South Carolina, in 1828, should thus labor to prove that, in 1775, there was no hostility, no cause of war, between South Carolina and England? That she had no occasion, in reference to her own interest, or from a regard to her own welfare, to take up arms in the Revolutionary contest? Can any one account for the expression of such strange sentiments, and their circulation through the State, otherwise than by supposing the object to be what I have already intimated, to raise the question, if they had no "*collision*" (mark the expression) with the ministers of King George the Third, in 1775, what *collision* have they, in 1828, with the ministers of King George the Fourth? What is there now in the existing state of things, to separate Carolina from *Old*, more, or rather, than from *New* England?

Resolutions, Sir, have been recently passed by the legislature of South Carolina. I need not refer to them; they go no farther than the honorable gentleman himself has gone, and I hope not so far. I content myself, therefore, with debating the matter with him.

And now, Sir, what I have first to say on this subject is, that at no time, and under no circumstances, has New England, or any State in New England, or any respectable body of persons in New England, or any public man of standing in New England, put forth such a doctrine as this Carolina doctrine.

The gentleman has found no case, he can find none, to support his own opinions by New England authority. New England has studied the Constitution in other schools, and under other teachers. She looks upon it with other regards, and deems more highly and reverently both of its just authority and its utility and excellence. The history of her legislative proceedings may be traced. The ephemeral effusions of temporary bodies, called together by the excitement of the occasion, may be hunted up; they have been hunted up. The opinions and votes of her public men, in and out of Congress, may be explored. It will all be in vain. The Carolina doctrine can derive from her neither countenance nor support. She rejects it now; she always did reject it; and till she loses her senses, she always will reject it. The honorable member has referred to expressions on the subject of the embargo law, made in this place, by an honorable and venerable gentleman,* now favoring us with his presence. He quotes that distinguished Senator as saying, that, in his judgment, the embargo law was unconstitutional, and that therefore, in his opinion, the people were not bound to obey it. That, Sir, is perfectly constitutional language. An unconstitutional law is not binding; *but then it does not rest with a resolution or a law of a State legislature to decide whether an act of Congress be or be not constitutional.* An unconstitutional act of Congress would not bind the people of this District, although they have no legislature to interfere in their behalf; and, on the other hand, a constitutional law of Congress does bind the citizens of every State, although all their legislatures should undertake to annul it by act or resolution. The venerable Connecticut Senator is a constitutional lawyer, of sound principles and enlarged knowledge; a statesman practised and experienced, bred in the company of Washington, and holding just views upon the nature of our governments. He believed the embargo unconstitutional, and so did others; but what then? Who did he suppose was to decide that question? The State legislatures? Certainly not. No such sentiment ever escaped his lips.

Let us follow up, Sir, this New England opposition to the embargo laws; let us trace it, till we discern the principle which

* Mr Hillhouse, of Connecticut.

controlled and governed New England throughout the whole course of that opposition. We shall then see what similarity there is between the New England school of constitutional opinions, and this modern Carolina school. The gentleman, I think, read a petition from some single individual addressed to the legislature of Massachusetts, asserting the Carolina doctrine; that is, the right of State interference to arrest the laws of the Union. The fate of that petition shows the sentiment of the legislature. It met no favor. The opinions of Massachusetts were very different. They had been expressed in 1798, in answer to the resolutions of Virginia, and she did not depart from them, nor bend them to the times. Misgoverned, wronged, oppressed, as she felt herself to be, she still held fast her integrity to the Union. The gentleman may find in her proceedings much evidence of dissatisfaction with the measures of government, and great and deep dislike to the embargo; all this makes the case so much the stronger for her; for, notwithstanding all this dissatisfaction and dislike, she still claimed no right to sever the bonds of the Union. There was heat, and there was anger in her political feeling. Be it so; but neither her heat nor her anger betrayed her into infidelity to the government. The gentleman labors to prove that she disliked the embargo as much as South Carolina dislikes the tariff, and expressed her dislike as strongly. Be it so; but did she propose the Carolina remedy? did she threaten to interfere, by State authority, to annul the laws of the Union? That is the question for the gentleman's consideration.

No doubt, Sir, a great majority of the people of New England conscientiously believed the embargo law of 1807 unconstitutional; as conscientiously, certainly, as the people of South Carolina hold that opinion of the tariff. They reasoned thus: Congress has power to regulate commerce; but here is a law, they said, stopping all commerce, and stopping it indefinitely. The law is perpetual; that is, it is not limited in point of time, and must of course continue until it shall be repealed by some other law. It is as perpetual, therefore, as the law against treason or murder. Now, is this regulating commerce, or destroying it? Is it guiding, controlling, giving the rule to commerce, as a subsisting thing, or is it putting an end to it altogether? Nothing is more certain, than that a majority in New England deemed

this law a violation of the Constitution. The very case required by the gentleman to justify State interference had then arisen. Massachusetts believed this law to be "a deliberate, palpable, and dangerous exercise of a power not granted by the Constitution." Deliberate it was, for it was long continued; palpable she thought it, as no words in the Constitution gave the power, and only a construction, in her opinion most violent, raised it; dangerous it was, since it threatened utter ruin to her most important interests. Here, then, was a Carolina case. How did Massachusetts deal with it? It was, as she thought, a plain, manifest, palpable violation of the Constitution, and it brought ruin to her doors. Thousands of families, and hundreds of thousands of individuals, were beggared by it. While she saw and felt all this, she saw and felt also, that, as a measure of national policy, it was perfectly futile; that the country was no way benefited by that which caused so much individual distress; that it was efficient only for the production of evil, and all that evil inflicted on ourselves. In such a case, under such circumstances, how did Massachusetts demean herself? Sir, she remonstrated, she memorialized, she addressed herself to the general government, not exactly "with the concentrated energy of passion," but with her own strong sense, and the energy of sober conviction. But she did not interpose the arm of her own power to arrest the law, and break the embargo. Far from it. Her principles bound her to two things; and she followed her principles, lead where they might. First, to submit to every constitutional law of Congress, and secondly, if the constitutional validity of the law be doubted, to refer that question to the decision of the proper tribunals. The first principle is vain and ineffectual without the second. A majority of us in New England believed the embargo law unconstitutional; but the great question was, and always will be in such cases, Who is to decide this? Who is to judge between the people and the government? And, Sir, it is quite plain, that the Constitution of the United States confers on the government itself, to be exercised by its appropriate department, and under its own responsibility to the people, this power of deciding ultimately and conclusively upon the just extent of its own authority. If this had not been done, we should not have advanced a single step beyond the old Confederation.

Being fully of opinion that the embargo law was unconstitutional, the people of New England were yet equally clear in the opinion, (it was a matter they did doubt upon,) that the question, after all, must be decided by the judicial tribunals of the United States. Before those tribunals, therefore, they brought the question. Under the provisions of the law, they had given bonds to millions in amount, and which were alleged to be forfeited. They suffered the bonds to be sued, and thus raised the question. In the old-fashioned way of settling disputes, they went to law. The case came to hearing, and solemn argument; and he who espoused their cause, and stood up for them against the validity of the embargo act, was none other than that great man, of whom the gentleman has made honorable mention, Samuel Dexter. He was then, Sir, in the fulness of his knowledge, and the maturity of his strength. He had retired from long and distinguished public service here, to the renewed pursuit of professional duties, carrying with him all that enlargement and expansion, all the new strength and force, which an acquaintance with the more general subjects discussed in the national councils is capable of adding to professional attainment, in a mind of true greatness and comprehension. He was a lawyer, and he was also a statesman. He had studied the Constitution, when he filled public station, that he might defend it; he had examined its principles that he might maintain them. More than all men, or at least as much as any man, he was attached to the general government and to the union of the States. His feelings and opinions all ran in that direction. A question of constitutional law, too, was, of all subjects, that one which was best suited to his talents and learning. Aloof from technicality, and unfettered by artificial rule, such a question gave opportunity for that deep and clear analysis, that mighty grasp of principle, which so much distinguished his higher efforts. His very statement was argument; his inference seemed demonstration. The earnestness of his own conviction wrought conviction in others. One was convinced, and believed, and assented, because it was gratifying, delightful, to think, and feel, and believe in unison with an intellect of such evident superiority.

Mr. Dexter, Sir, such as I have described him, argued the New England cause. He put into his effort his whole heart, as well as all the powers of his understanding; for he had avowed,

in the most public manner, his entire concurrence with his neighbors on the point in dispute. He argued the cause; it was lost, and New England submitted. The established tribunals pronounced the law constitutional, and New England acquiesced. Now, Sir, is not this the exact opposite of the doctrine of the gentleman from South Carolina? According to him, instead of referring to the judicial tribunals, we should have broken up the embargo by laws of our own; we should have repealed it, *quoad* New England; for we had a strong, palpable, and oppressive case. Sir, we believed the embargo unconstitutional; but still that was matter of opinion, and who was to decide it? We thought it a clear case; but, nevertheless, we did not take the law into our own hands, because we did not wish to bring about a revolution, nor to break up the Union; for I maintain, that between submission to the decision of the constituted tribunals, and revolution, or disunion, there is no middle ground; there is no ambiguous condition, half allegiance and half rebellion. And, Sir, how futile, how very futile it is, to admit the right of State interference, and then attempt to save it from the character of unlawful resistance, by adding terms of qualification to the causes and occasions, leaving all these qualifications, like the case itself, in the discretion of the State governments. It must be a clear case, it is said, a deliberate case, a palpable case, a dangerous case. But then the State is still left at liberty to decide for herself what is clear, what is deliberate, what is palpable, what is dangerous. Do adjectives and epithets avail any thing?

Sir, the human mind is so constituted, that the merits of both sides of a controversy appear very clear, and very palpable, to those who respectively espouse them; and both sides usually grow clearer as the controversy advances. South Carolina sees unconstitutionality in the tariff; she sees oppression there also, and she sees danger. Pennsylvania, with a vision not less sharp, looks at the same tariff, and sees no such thing in it; she sees it all constitutional, all useful, all safe. The faith of South Carolina is strengthened by opposition, and she now not only sees, but *resolves*, that the tariff is palpably unconstitutional, oppressive, and dangerous; but Pennsylvania, not to be behind her neighbors, and equally willing to strengthen her own faith by a confident asseveration, *resolves*, also, and gives to every warm

affirmative of South Carolina, a plain, downright, Pennsy vania negative. South Carolina, to show the strength and unity of her opinion, brings her assembly to a unanimity, within seven voices; Pennsylvania, not to be outdone in this respect any more than in others, reduces her dissentient fraction to a single vote Now, Sir, again, I ask the gentleman, What is to be done? Are these States both right? Is he bound to consider them both right? If not, which is in the wrong? or rather, which has the best right to decide? And if he, and if I, are not to know what the Constitution means, and what it is, till those two State legislatures, and the twenty-two others, shall agree in its construction, what have we sworn to, when we have sworn to maintain it? I was forcibly struck, Sir, with one reflection, as the gentleman went on in his speech. He quoted Mr. Madison's resolutions, to prove that a State may interfere, in a case of deliberate, palpable, and dangerous exercise of a power not granted. The honorable member supposes the tariff law to be such an exercise of power; and that consequently a case has arisen in which the State may, if it see fit, interfere by its own law. Now it so happens, nevertheless, that Mr. Madison deems this same tariff law quite constitutional. Instead of a clear and palpable violation, it is, in his judgment, no violation at all. So that, while they use his authority for a hypothetical case, they reject it in the very case before them. All this, Sir, shows the inherent futility, I had almost used a stronger word, of conceding this power of interference to the State, and then attempting to secure it from abuse by imposing qualifications of which the States themselves are to judge. One of two things is true; either the laws of the Union are beyond the discretion and beyond the control of the States; or else we have no constitution of general government, and are thrust back again to the days of the Confederation.

Let me here say, Sir, that if the gentleman's doctrine had been received and acted upon in New England, in the times of the embargo and non-intercourse, we should probably not now have been here. The government would very likely have gone to pieces, and crumbled into dust. No stronger case can ever arise than existed under those laws; no States can ever entertain a clearer conviction than the New England States then entertained; and if they had been under the influence of that heresy

of opinion, as I must call it, which the honorable member espouses, this Union would, in all probability, have been scattered to the four winds. I ask the gentleman, therefore, to apply his principles to that case; I ask him to come forth and declare, whether, in his opinion, the New England States would have been justified in interfering to break up the embargo system under the conscientious opinions which they held upon it? Had they a right to annul that law? Does he admit or deny? If what is thought palpably unconstitutional in South Carolina justifies that State in arresting the progress of the law, tell me whether that which was thought palpably unconstitutional also in Massachusetts would have justified her in doing the same thing. Sir, I deny the whole doctrine. It has not a foot of ground in the Constitution to stand on. No public man of reputation ever advanced it in Massachusetts in the warmest times, or could maintain himself upon it there at any time.

I wish now, Sir, to make a remark upon the Virginia resolutions of 1798. I cannot undertake to say how these resolutions were understood by those who passed them. Their language is not a little indefinite. In the case of the exercise by Congress of a dangerous power not granted to them, the resolutions assert the right, on the part of the State, to interfere and arrest the progress of the evil. This is susceptible of more than one interpretation. It may mean no more than that the States may interfere by complaint and remonstrance, or by proposing to the people an alteration of the Federal Constitution. This would all be quite unobjectionable. Or it may be that no more is meant than to assert the general right of revolution, as against all governments, in cases of intolerable oppression. This no one doubts, and this, in my opinion, is all that he who framed the resolutions could have meant by it; for I shall not readily believe that he was ever of opinion that a State, under the Constitution and in conformity with it, could, upon the ground of her own opinion of its unconstitutionality, however clear and palpable she might think the case, annul a law of Congress, so far as it should operate on herself, by her own legislative power.

I must now beg to ask, Sir, Whence is this supposed right of the States derived? Where do they find the power to interfere with the laws of the Union? Sir, the opinion which the honor-

able gentleman maintains is a notion founded in a total misapprehension, in my judgment, of the origin of this government, and of the foundation on which it stands. I hold it to be a popular government, erected by the people; those who administer it, responsible to the people; and itself capable of being amended and modified, just as the people may choose it should be. It is as popular, just as truly emanating from the people, as the State governments. It is created for one purpose; the State governments for another. It has its own powers; they have theirs. There is no more authority with them to arrest the operation of a law of Congress, than with Congress to arrest the operation of their laws. We are here to administer a Constitution emanating immediately from the people, and trusted by them to our administration. It is not the creature of the State governments. It is of no moment to the argument, that certain acts of the State legislatures are necessary to fill our seats in this body. That is not one of their original State powers, a part of the sovereignty of the State. It is a duty which the people, by the Constitution itself, have imposed on the State legislatures; and which they might have left to be performed elsewhere, if they had seen fit. So they have left the choice of President with electors; but all this does not affect the proposition that this whole government, President, Senate, and House of Representatives, is a popular government. It leaves it still all its popular character. The governor of a State (in some of the States) is chosen, not directly by the people, but by those who are chosen by the people, for the purpose of performing, among other duties, that of electing a governor. Is the government of the State, on that account, not a popular government? This government, Sir, is the independent offspring of the popular will. It is not the creature of State legislatures; nay, more, if the whole truth must be told, the people brought it into existence, established it, and have hitherto supported it, for the very purpose, amongst others, of imposing certain salutary restraints on State sovereignties. The States cannot now make war; they cannot contract alliances; they cannot make, each for itself, separate regulations of commerce; they cannot lay imposts; they cannot coin money. If this Constitution, Sir, be the creature of State legislatures, it must be admitted that it has obtained a strange control over the volitions of its creators.

The people, then, Sir, erected this government. They gave it a Constitution, and in that Constitution they have enumerated the powers which they bestow on it. They have made it a limited government. They have defined its authority. They have restrained it to the exercise of such powers as are granted; and all others, they declare, are reserved to the States or the people. But, Sir, they have not stopped here. If they had, they would have accomplished but half their work. No definition can be so clear, as to avoid possibility of doubt; no limitation so precise, as to exclude all uncertainty. Who, then, shall construe this grant of the people? Who shall interpret their will, where it may be supposed they have left it doubtful? With whom do they repose this ultimate right of deciding on the powers of the government? Sir, they have settled all this in the fullest manner. They have left it with the government itself, in its appropriate branches. Sir, the very chief end, the main design, for which the whole Constitution was framed and adopted, was to establish a government that should not be obliged to act through State agency, or depend on State opinion and State discretion. The people had had quite enough of that kind of government under the Confederation. Under that system, the legal action, the application of law to individuals, belonged exclusively to the States. Congress could only recommend; their acts were not of binding force, till the States had adopted and sanctioned them. Are we in that condition still? Are we yet at the mercy of State discretion and State construction? Sir, if we are, then vain will be our attempt to maintain the Constitution under which we sit.

But, Sir, the people have wisely provided, in the Constitution itself, a proper, suitable mode and tribunal for settling questions of constitutional law. There are in the Constitution grants of powers to Congress, and restrictions on these powers. There are, also, prohibitions on the States. Some authority must, therefore, necessarily exist, having the ultimate jurisdiction to fix and ascertain the interpretation of these grants, restrictions, and prohibitions. The Constitution has itself pointed out, ordained, and established that authority. How has it accomplished this great and essential end? By declaring, Sir, that "*the Constitution, and the laws of the United States made in pursuance thereof, shall be the supreme law of the land, any thing in the constitution or laws of any State to the contrary notwithstanding.*"

This, Sir, was the first great step. By this the supremacy of the Constitution and laws of the United States is declared. The people so will it. No State law is to be valid which comes in conflict with the Constitution, or any law of the United States passed in pursuance of it. But who shall decide this question of interference? To whom lies the last appeal? This, Sir, the Constitution itself decides also, by declaring, "*that the judicial power shall extend to all cases arising under the Constitution and laws of the United States.*" These two provisions cover the whole ground. They are, in truth, the keystone of the arch! With these it is a government; without them it is a confederation. In pursuance of these clear and express provisions, Congress established, at its very first session, in the judicial act, a mode for carrying them into full effect, and for bringing all questions of constitutional power to the final decision of the Supreme Court. It then, Sir, became a government. It then had the means of self-protection; and but for this, it would, in all probability, have been now among things which are past. Having constituted the government, and declared its powers, the people have further said, that, since somebody must decide on the extent of these powers, the government shall itself decide; subject, always, like other popular governments, to its responsibility to the people. And now, Sir, I repeat, how is it that a State legislature acquires any power to interfere? Who, or what, gives them the right to say to the people, "We, who are your agents and servants for one purpose, will undertake to decide, that your other agents and servants, appointed by you for another purpose, have transcended the authority you gave them!" The reply would be, I think, not impertinent, — "Who made you a judge over another's servants? To their own masters they stand or fall."

Sir, I deny this power of State legislatures altogether. It cannot stand the test of examination. Gentlemen may say, that, in an extreme case, a State government might protect the people from intolerable oppression. Sir, in such a case, the people might protect themselves, without the aid of the State governments. Such a case warrants revolution. It must make, when it comes, a law for itself. A nullifying act of a State legislature cannot alter the case, nor make resistance any more lawful. In maintaining these sentiments, Sir, I am but asserting

the rights of the people. I state what they have declared, and insist on their right to declare it. They have chosen to repose this power in the general government, and I think it my duty to support it, like other constitutional powers.

For myself, Sir, I do not admit the competency of South Carolina, or any other State, to prescribe my constitutional duty; or to settle, between me and the people, the validity of laws of Congress, for which I have voted. I decline her umpirage. I have not sworn to support the Constitution according to her construction of its clauses. I have not stipulated, by my oath of office or otherwise, to come under any responsibility, except to the people, and those whom they have appointed to pass upon the question, whether laws, supported by my votes, conform to the Constitution of the country. And, Sir, if we look to the general nature of the case, could any thing have been more preposterous, than to make a government for the whole Union, and yet leave its powers subject, not to one interpretation, but to thirteen or twenty-four interpretations? Instead of one tribunal, established by all, responsible to all, with power to decide for all, shall constitutional questions be left to four-and-twenty popular bodies, each at liberty to decide for itself, and none bound to respect the decisions of others; and each at liberty, too, to give a new construction on every new election of its own members? Would any thing, with such a principle in it, or rather with such a destitution of all principle, be fit to be called a government? No, Sir. It should not be denominated a Constitution. It should be called, rather, a collection of topics for everlasting controversy; heads of debate for a disputatious people. It would not be a government. It would not be adequate to any practical good, or fit for any country to live under.

To avoid all possibility of being misunderstood, allow me to repeat again, in the fullest manner, that I claim no powers for the government by forced or unfair construction. I admit that it is a government of strictly limited powers; of enumerated, specified, and particularized powers; and that whatsoever is not granted, is withheld. But notwithstanding all this, and however the grant of powers may be expressed, its limit and extent may yet, in some cases, admit of doubt; and the general government would be good for nothing, it would be incapable of long

existing, if some mode had not been provided in which those doubts, as they should arise, might be peaceably, but authoritatively, solved.

And now, Mr. President, let me run the honorable gentleman's doctrine a little into its practical application. Let us look at his probable *modus operandi*. If a thing can be done, an ingenious man can tell *how* it is to be done, and I wish to be informed *how* this State interference is to be put in practice, without violence, bloodshed, and rebellion. We will take the existing case of the tariff law. South Carolina is said to have made up her opinion upon it. If we do not repeal it (as we probably shall not), she will then apply to the case the remedy of her doctrine. She will, we must suppose, pass a law of her legislature, declaring the several acts of Congress, usually called the tariff laws, null and void, so far as they respect South Carolina, or the citizens thereof. So far, all is a paper transaction, and easy enough. But the collector at Charleston is collecting the duties imposed by these tariff laws. He, therefore, must be stopped. The collector will seize the goods if the tariff duties are not paid. The State authorities will undertake their rescue, the marshal, with his posse, will come to the collector's aid, and here the contest begins. The militia of the State will be called out to sustain the nullifying act. They will march, Sir, under a very gallant leader; for I believe the honorable member himself commands the militia of that part of the State. He will raise the NULLIFYING ACT on his standard, and spread it out as his banner! It will have a preamble, setting forth, that the tariff laws are palpable, deliberate, and dangerous violations of the Constitution! He will proceed, with this banner flying, to the custom-house in Charleston,

"All the while,
Sonorous metal blowing martial sounds."

Arrived at the custom-house, he will tell the collector that he must collect no more duties under any of the tariff laws. This he will be somewhat puzzled to say, by the way, with a grave countenance, considering what hand South Carolina herself had in that of 1816. But, Sir, the collector would not, probably, desist, at his bidding. He would show him the law of Congress, the treasury instruction, and his own oath of office. He would say, he should perform his duty, come what come might.

Here would ensue a pause; for they say that a certain stillness precedes the tempest. The trumpeter would hold his breath awhile, and before all this military array should fall on the custom-house, collector, clerks, and all, it is very probable some of those composing it would request of their gallant commander-in-chief to be informed a little upon the point of law; for they have, doubtless, a just respect for his opinions as a lawyer, as well as for his bravery as a soldier. They know he has read Blackstone and the Constitution, as well as Turenne and Vauban. They would ask him, therefore, something concerning their rights in this matter. They would inquire, whether it was not somewhat dangerous to resist a law of the United States. What would be the nature of their offence, they would wish to learn, if they, by military force and array, resisted the execution in Carolina of a law of the United States, and it should turn out, after all, that the law *was constitutional?* He would answer, of course, Treason. No lawyer could give any other answer. John Fries, he would tell them, had learned that, some years ago. How, then, they would ask, do you propose to defend us? We are not afraid of bullets, but treason has a way of taking people off that we do not much relish. How do you propose to defend us? "Look at my floating banner," he would reply; "see there the *nullifying law!*" Is it your opinion, gallant commander, they would then say, that, if we should be indicted for treason, that same floating banner of yours would make a good plea in bar? "South Carolina is a sovereign State," he would reply. That is true; but would the judge admit our plea? "These tariff laws," he would repeat, "are unconstitutional, palpably, deliberately, dangerously." That may all be so; but if the tribunal should not happen to be of that opinion, shall we swing for it? We are ready to die for our country, but it is rather an awkward business, this dying without touching the ground! After all, that is a sort of hemp tax worse than any part of the tariff.

Mr. President, the honorable gentleman would be in a dilemma, like that of another great general. He would have a knot before him which he could not untie. He must cut it with his sword. He must say to his followers, "Defend yourselves with your bayonets"; and this is war, — civil war.

Direct collision, therefore, between force and force, is the un-

avoidable result of that remedy for the revision of unconstitutional laws which the gentleman contends for. It must happen in the very first case to which it is applied. Is not this the plain result? To resist by force the execution of a law, generally, is treason. Can the courts of the United States take notice of the indulgence of a State to commit treason? The common saying, that a State cannot commit treason herself, is nothing to the purpose. Can she authorize others to do it? If John Fries had produced an act of Pennsylvania, annulling the law of Congress, would it have helped his case? Talk about it as we will, these doctrines go the length of revolution. They are incompatible with any peaceable administration of the government. They lead directly to disunion and civil commotion; and therefore it is, that at their commencement, when they are first found to be maintained by respectable men, and in a tangible form, I enter my public protest against them all.

The honorable gentleman argues, that if this government be the sole judge of the extent of its own powers, whether that right of judging be in Congress or the Supreme Court, it equally subverts State sovereignty. This the gentleman sees, or thinks he sees, although he cannot perceive how the right of judging, in this matter, if left to the exercise of State legislatures, has any tendency to subvert the government of the Union. The gentleman's opinion may be, that the right *ought not* to have been lodged with the general government; he may like better such a constitution as we should have under the right of State interference; but I ask him to meet me on the plain matter of fact. I ask him to meet me on the Constitution itself. I ask him if the power is not found there, clearly and visibly found there? *

But, Sir, what is this danger, and what are the grounds of it? Let it be remembered, that the Constitution of the United States is not unalterable. It is to continue in its present form no longer than the people who established it shall choose to continue it. If they shall become convinced that they have made an injudicious or inexpedient partition and distribution of power between the State governments and the general government, they can alter that distribution at will.

* See Note C, at the end of the speech.

If any thing be found in the national Constitution, either by original provision or subsequent interpretation, which ought not to be in it, the people know how to get rid of it. If any construction, unacceptable to them, be established, so as to become practically a part of the Constitution, they will amend it, at their own sovereign pleasure. But while the people choose to maintain it as it is, while they are satisfied with it, and refuse to change it, who has given, or who can give, to the State legislatures a right to alter it, either by interference, construction, or otherwise? Gentlemen do not seem to recollect that the people have any power to do any thing for themselves. They imagine there is no safety for them, any longer than they are under the close guardianship of the State legislatures. Sir, the people have not trusted their safety, in regard to the general Constitution, to these hands. They have required other security, and taken other bonds. They have chosen to trust themselves, first, to the plain words of the instrument, and to such construction as the government themselves, in doubtful cases, should put on their own powers, under their oaths of office, and subject to their responsibility to them; just as the people of a State trust their own State governments with a similar power. Secondly, they have reposed their trust in the efficacy of frequent elections, and in their own power to remove their own servants and agents whenever they see cause. Thirdly, they have reposed trust in the judicial power, which, in order that it might be trustworthy, they have made as respectable, as disinterested, and as independent as was practicable. Fourthly, they have seen fit to rely, in case of necessity, or high expediency, on their known and admitted power to alter or amend the Constitution, peaceably and quietly, whenever experience shall point out defects or imperfections. And, finally, the people of the United States have at no time, in no way, directly or indirectly, authorized any State legislature to construe or interpret *their* high instrument of government; much less, to interfere, by their own power, to arrest its course and operation.

If, Sir, the people in these respects had done otherwise than they have done, their constitution could neither have been preserved, nor would it have been worth preserving. And if its plain provisions shall now be disregarded, and these new doctrines interpolated in it, it will become as feeble and helpless a

being as its enemies, whether early or more recent, could possibly desire. It will exist in every State but as a poor dependent on State permission. It must borrow leave to be; and will be, no longer than State pleasure, or State discretion, sees fit to grant the indulgence, and to prolong its poor existence.

But, Sir, although there are fears, there are hopes also. The people have preserved this, their own chosen Constitution, for forty years, and have seen their happiness, prosperity, and renown grow with its growth, and strengthen with its strength. They are now, generally, strongly attached to it. Overthrown by direct assault, it cannot be; evaded, undermined, NULLIFIED, it will not be, if we, and those who shall succeed us here, as agents and representatives of the people, shall conscientiously and vigilantly discharge the two great branches of our public trust, faithfully to preserve, and wisely to administer it.

Mr. President, I have thus stated the reasons of my dissent to the doctrines which have been advanced and maintained. I am conscious of having detained you and the Senate much too long. I was drawn into the debate with no previous deliberation, such as is suited to the discussion of so grave and important a subject. But it is a subject of which my heart is full, and I have not been willing to suppress the utterance of its spontaneous sentiments. I cannot, even now, persuade myself to relinquish it, without expressing once more my deep conviction, that, since it respects nothing less than the Union of the States, it is of most vital and essential importance to the public happiness. I profess, Sir, in my career hitherto, to have kept steadily in view the prosperity and honor of the whole country, and the preservation of our Federal Union. It is to that Union we owe our safety at home, and our consideration and dignity abroad. It is to that Union that we are chiefly indebted for whatever makes us most proud of our country. That Union we reached only by the discipline of our virtues in the severe school of adversity. It had its origin in the necessities of disordered finance, prostrate commerce, and ruined credit. Under its benign influences, these great interests immediately awoke, as from the dead, and sprang forth with newness of life. Every year of its duration has teemed with fresh proofs of its utility and its blessings; and although our territory has stretched out wider and wider, and our population spread farther and farther, they have not

outrun its protection or its benefits. It has been to us all a copious fountain of national, social, and personal happiness.

I have not allowed myself, Sir, to look beyond the Union, to see what might lie hidden in the dark recess behind. I have not coolly weighed the chances of preserving liberty when the bonds that unite us together shall be broken asunder. I have not accustomed myself to hang over the precipice of disunion, to see whether, with my short sight, I can fathom the depth of the abyss below; nor could I regard him as a safe counsellor in the affairs of this government, whose thoughts should be mainly bent on considering, not how the Union may be best preserved, but how tolerable might be the condition of the people when it should be broken up and destroyed. While the Union lasts, we have high, exciting, gratifying prospects spread out before us, for us and our children. Beyond that I seek not to penetrate the veil. God grant that in my day, at least, that curtain may not rise! God grant that on my vision never may be opened what lies behind! When my eyes shall be turned to behold for the last time the sun in heaven, may I not see him shining on the broken and dishonored fragments of a once glorious Union; on States dissevered, discordant, belligerent; on a land rent with civil feuds, or drenched, it may be, in fraternal blood! Let their last feeble and lingering glance rather behold the gorgeous ensign of the republic, now known and honored throughout the earth, still full high advanced, its arms and trophies streaming in their original lustre, not a stripe erased or polluted, nor a single star obscured, bearing for its motto, no such miserable interrogatory as "What is all this worth?" nor those other words of delusion and folly, "Liberty first and Union afterwards"; but everywhere, spread all over in characters of living light, blazing on all its ample folds, as they float over the sea and over the land, and in every wind under the whole heavens, that other sentiment, dear to every true American heart, — Liberty *and* Union, now and for ever, one and inseparable!

LAST REMARKS ON FOOT'S RESOLUTION.*

Mr. Hayne having rejoined to Mr. Webster, especially on the constitutional question, Mr. Webster rose, and, in conclusion, said: —

A few words, Mr. President, on this constitutional argument, which the honorable gentleman has labored to reconstruct.

His argument consists of two propositions and an inference. His propositions are, —

1. That the Constitution is a compact between the States.

2. That a compact between two, with authority reserved to one to interpret its terms, would be a surrender to that one of all power whatever.

3. Therefore, (such is his inference,) the general government does not possess the authority to construe its own powers.

Now, Sir, who does not see, without the aid of exposition or detection, the utter confusion of ideas involved in this so elaborate and systematic argument.

The Constitution, it is said, is a compact *between States;* the States, then, and the States only, *are parties* to the compact. How comes the general government itself *a party?* Upon the honorable gentleman's hypothesis, the general government is the result of the compact, the creature of the compact, not one of the parties to it. Yet the argument, as the gentleman has now stated it, makes the government itself one of its own creators. It makes it a party to that compact to which it owes its own existence.

For the purpose of erecting the Constitution on the basis of a compact, the gentleman considers the States as parties to that compact; but as soon as his compact is made, then he chooses

* Delivered in the Senate, on the 27th of January, 1830.

to consider the general government, which is the offspring of that compact, not its offspring, but one of its parties; and so, being a party, without the power of judging on the terms of compact. Pray, Sir, in what school is such reasoning as this taught?

If the whole of the gentleman's main proposition were conceded to him; that is to say, if I admit, for the sake of the argument, that the Constitution is a compact between States, the inferences which he draws from that proposition are warranted by no just reasoning. If the Constitution be a compact between States, still that Constitution, or that compact, has established a government, with certain powers; and whether it be one of those powers, that it shall construe and interpret for itself the terms of the compact, in doubtful cases, is a question which can only be decided by looking to the compact, and inquiring what provisions it contains on this point. Without any inconsistency with natural reason, the government even thus created might be trusted with this power of construction. The extent of its powers, therefore, must still be sought for in the instrument itself.

If the old Confederation had contained a clause, declaring that resolutions of the Congress should be the supreme law of the land, any State law or constitution to the contrary notwithstanding, and that a committee of Congress, or any other body created by it, should possess judicial powers, extending to all cases arising under resolutions of Congress, then the power of ultimate decision would have been vested in Congress under the confederation, although that confederation was a compact between States; and for this plain reason; that it would have been competent to the States, who alone were parties to the compact, to agree who should decide in cases of dispute arising on the construction of the compact.

For the same reason, Sir, if I were now to concede to the gentleman his principal proposition, namely, that the Constitution is a compact between States, the question would still be, What provision is made, in this compact, to settle points of disputed construction, or contested power, that shall come into controversy? And this question would still be answered, and conclusively answered, by the Constitution itself.

While the gentleman is contending against construction, he

himself is setting up the most loose and dangerous construction. The Constitution declares, that *the laws of Congress passed in pursuance of the Constitution shall be the supreme law of the land.* No construction is necessary here. It declares, also, with equal plainness and precision, *that the judicial power of the United States shall extend to every case arising under the laws of Congress.* This needs no construction. Here is a law, then, which is declared to be supreme; and here is a power established, which is to interpret that law. Now, Sir, how has the gentleman met this? Suppose the Constitution to be a compact, yet here are its terms; and how does the gentleman get rid of them? He cannot argue the *seal off the bond*, nor the words out of the instrument. Here they are; what answer does he give to them? None in the world, Sir, except, that the effect of this would be to place the States in a condition of inferiority; and that it results from the very nature of things, there being no superior, that the parties must be their own judges! Thus closely and cogently does the honorable gentleman reason on the words of the Constitution. The gentleman says, if there be such a power of final decision in the general government, he asks for the grant of that power. Well, Sir, I show him the grant. I turn him to the very words. I show him that the laws of Congress are made supreme; and that the judicial power extends, by express words, to the interpretation of these laws. Instead of answering this, he retreats into the general reflection, that it must result *from the nature of things*, that the States, being parties, must judge for themselves.

I have admitted, that, if the Constitution were to be considered as the creature of the State governments, it might be modified, interpreted, or construed according to their pleasure. But, even in that case, it would be necessary that they should *agree.* One alone could not interpret it conclusively; one alone could not construe it; one alone could not modify it. Yet the gentleman's doctrine is, that Carolina alone may construe and interpret that compact which equally binds all, and gives equal rights to all.

So, then, Sir, even supposing the Constitution to be a compact between the States, the gentleman's doctrine, nevertheless, is not maintainable; because, first, the general government is not a party to that compact, but a *government* established

by it, and vested by it with the powers of trying and decid ing doubtful questions; and secondly, because, if the Constitution be regarded as a compact, not one State only, but all the States, are parties to that compact, and one can have no right to fix upon it her own peculiar construction.

So much, Sir, for the argument, even if the premises of the gentleman were granted, or could be proved. But, Sir, the gentleman has failed to maintain his leading proposition. He has not shown, it cannot be shown, that the Constitution is a compact between State governments. The Constitution itself, in its very front, refutes that idea; it declares that it is ordained and established *by the people of the United States.* So far from saying that it is established by the governments of the several States, it does not even say that it is established by the people *of the several States;* but it pronounces that it is established by the people of the United States, in the aggregate. The gentleman says, it must mean no more than the people of the several States. Doubtless, the people of the several States, taken collectively, constitute the people of the United States; but it is in this, their collective capacity, it is as all the people of the United States, that they establish the Constitution. So they declare; and words cannot be plainer than the words used.

When the gentleman says the Constitution is a compact between the States, he uses language exactly applicable to the old Confederation. He speaks as if he were in Congress before 1789. He describes fully that old state of things then existing. The Confederation was, in strictness, a compact; the States, as States, were parties to it. We had no other general government. But that was found insufficient, and inadequate to the public exigencies. The people were not satisfied with it, and undertook to establish a better. They undertook to form a general government, which should stand on a new basis; not a confederacy, not a league, not a compact between States, but a *Constitution;* a popular government, founded in popular election, directly responsible to the people themselves, and divided into branches with prescribed limits of power, and prescribed duties. They ordained such a government, they gave it the name of a *Constitution*, and therein they established a distribution of powers between this, their general government, and their several

State governments. When they shall become dissatisfied with this distribution, they can alter it. Their own power over their own instrument remains. But until they shall alter it, it must stand as their will, and is equally binding on the general government and on the States.

The gentleman, Sir, finds analogy where I see none. He likens it to the case of a treaty, in which, there being no common superior, each party must interpret for itself, under its own obligation of good faith. But this is not a treaty, but a constitution of government, with powers to execute itself, and fulfil its duties.

I admit, Sir, that this government is a government of checks and balances; that is, the House of Representatives is a check on the Senate, and the Senate is a check on the House, and the President a check on both. But I cannot comprehend him, or, if I do, I totally differ from him, when he applies the notion of checks and balances to the interference of different governments. He argues, that, if we transgress our constitutional limits, each State, as a State, has a right to check us. Does he admit the converse of the proposition, that we have a right to check the States? The gentleman's doctrines would give us a strange jumble of authorities and powers, instead of governments of separate and defined powers. It is the part of wisdom, I think, to avoid this; and to keep the general government and the State government each in its proper sphere, avoiding as carefully as possible every kind of interference.

Finally, Sir, the honorable gentleman says, that the States will only interfere, by their power, to preserve the Constitution. They will not destroy it, they will not impair it; they will only save, they will only preserve, they will only strengthen it! Ah! Sir, this is but the old story. All regulated governments, all free governments, have been broken by similar disinterested and well disposed interference. It is the common pretence. But I take leave of the subject.

NOTES.

NOTE A. Page 282.

Extract from the Journal of the Congress of the Confederation.

Wednesday, 21*st February*, 1787.

Congress assembled: Present, as before. The report of a grand committee, consisting of Mr. Dane, Mr. Varnum, Mr. S. M. Mitchell, Mr. Smith, Mr. Cadwallader, Mr. Irvine, Mr. N. Mitchell, Mr. Forrest, Mr. Grayson, Mr. Blount, Mr. Bull, and Mr. Few, to whom was referred a letter of 14th September, 1786, from J. Dickinson, written at the request of commissioners from the States of Virginia, Delaware, Pennsylvania, New Jersey, and New York, assembled at the city of Annapolis, together with a copy of the report of said commissioners to the legislatures of the States by whom they were appointed, being an order of the day, was called up, and which is contained in the following resolution, viz.: —

"Congress having had under consideration the letter of John Dickinson, Esq., chairman of the commissioners who assembled at Annapolis during the last year, also the proceedings of the said commissioners, and entirely coinciding with them as to the inefficiency of the federal government, and the necessity of devising such further provisions as shall render the same adequate to the exigencies of the Union, do strongly recommend to the different legislatures to send forward delegates to meet the proposed Convention, on the second Monday in May next, at the city of Philadelphia."

NOTE B. Page 298.

Extract from Mr. Calhoun's Speech in the House of Representatives, April, 1816, *on Mr. Randolph's Motion to strike out the Minimum Valuation on Cotton Goods.*

"The debate, heretofore, on this subject, has been on the degree of protection which ought to be afforded to our cotton and woollen manu-

factures; all professing to be friendly to those infant establishments, and to be willing to extend to them adequate encouragement. The present motion assumes a new aspect. It is introduced, professedly, on the ground that manufactures ought not to receive any encouragement; and will, in its operation, leave our cotton establishments exposed to the competition of the cotton goods of the East Indies, which, it is acknowledged on all sides, they are not capable of meeting with success, without the proviso proposed to be stricken out by the motion now under discussion. Till the debate assumed this new form, he (Mr. Calhoun) determined to be silent; participating, as he largely did, in that general anxiety which is felt, after so long and laborious a session, to return to the bosom of our families. But on a subject of such vital importance, touching, as it does, the security and permanent prosperity of our country, he hoped that the House would indulge him in a few observations.

"To give perfection to this state of things, it will be necessary to add, as soon as possible, a system of internal improvements, and, at least, such an extension of our navy as will prevent the cutting off our coasting trade. The advantage of each is so striking as not to require illustration, especially after the experience of the late war.

"He firmly believed that the country is prepared, even to maturity, for the introduction of manufactures. We have abundance of resources, and things naturally tend, at this moment, in that direction. A prosperous commerce has poured an immense amount of commercial capital into this country. This capital has till lately found occupation in commerce; but that state of the world which transferred it to this country and gave it active employment, has passed away, never to return. Where shall we now find full employment for our prodigious amount of tonnage? Where, markets for the numerous and abundant products of our country? This great body of active capital, which, *for the moment*, has found sufficient employment in supplying our markets, exhausted by the war and measures preceding it, must find a new direction; it will not be idle. What channel can it take but that of manufactures? This, if things continue as they are, will be its direction. It will introduce an era in our affairs, in many respects highly advantageous, and which ought to be countenanced by the government.

"Besides, we have already surmounted the greatest difficulty that has ever been found in undertakings of this kind. The cotton and woollen manufactures are not to be *introduced*, — they are *already* introduced to a great extent; freeing us entirely from the hazards, and, in a great measure, the sacrifices, experienced in giving the capital of the country a new direction. The restrictive measures, and the war, though not in

tended for that purpose, have, by the necessary operation of things turned a large amount of capital to this new branch of industry. He had often heard it said, both in and out of Congress, that this effect alone would indemnify the country for all its losses. So high was this tone of feeling when the want of these establishments was practically felt, that he remembered, during the war, when some question was agitated respecting the introduction of foreign goods, that many then opposed it on the ground of injuring our manufactures. He then said, that war alone furnished sufficient stimulus, and perhaps too much, as it would make their growth unnaturally rapid; but that, on the return of peace, it would then be time to show our affection for them. He at that time did not expect an apathy and aversion to the extent which is now seen.

"But it will no doubt be said, if they are so far established, and if the situation of the country is so favorable to their growth, where is the necessity of affording them protection? It is to put them beyond the reach of contingency.

"It has been further asserted, that manufactures are the fruitful cause of pauperism; and England has been referred to as furnishing conclusive evidence of its truth. For his part, he could perceive no such tendency in them, but the exact contrary, as they furnished new stimulus and means of subsistence to the laboring classes of the community. We ought not to look at the cotton and woollen establishments of Great Britain for the prodigious numbers of poor with which her population was disgraced; causes much more efficient exist. Her poor laws, and statutes regulating the prices of labor, with taxes, were the real causes. But if it must be so, if the mere fact that England manufactured more than any other country, explained the cause of her having more beggars, it is just as reasonable to refer to the same cause her courage, spirit, and all her masculine virtues, in which she excels all other nations, with a single exception; he meant our own, in which we might, without vanity, challenge a preëminence.

"Another objection had been, which he must acknowledge was better founded, that capital employed in manufacturing produced a greater dependence on the part of the employed, than in commerce, navigation, or agriculture. It is certainly an evil, and to be regretted, but he did not think it a decisive objection to the system; especially when it had incidental political advantages, which, in his opinion, more than counterpoised it. It produced an interest strictly American, as much so as agriculture, in which it had the decided advantage of commerce or navigation. The country will from this derive much advantage.

"Again: it is calculated to bind together more closely our widely spread republic. It will greatly increase our mutual dependence and

intercourse; and will, as a necessary consequence, excite an increased attention to internal improvements, a subject every way so intimately connected with the ultimate attainment of national strength, and the perfection of our political institutions."

Extract from the Speech of Mr. Calhoun, April, 1816, on the Direct Tax.

In regard to the question, how far manufactures ought to be fostered, Mr. Calhoun said, "It was the duty of this country, as a means of defence, to encourage the domestic industry of the country, more especially that part of it which provides the necessary materials for clothing and defence. Let us look to the nature of the war most likely to occur. England is in the possession of the ocean. No man, however sanguine, can believe that we can deprive her soon of her predominance there. That control deprives us of the means of keeping our army and navy cheaply clad. The question relating to manufactures must not depend on the abstract principle, that industry, left to pursue its own course, will find in its own interest all the encouragement that is necessary. I lay the claims of the manufacturers entirely out of view," said Mr. Calhoun; "but, on general principles, without regard to their interest, a certain encouragement should be extended, at least, to our woollen and cotton manufactures.

"This nation," Mr. Calhoun said, "was rapidly changing the character of its industry. When a nation is agricultural, depending for supply on foreign markets, its people may be taxed through its imports almost to the amount of its capacity. The nation was, however, rapidly becoming, to a considerable extent, a manufacturing nation."

To the quotations from the speeches and proceedings of the Representatives of South Carolina in Congress, during Mr. Monroe's administration, may be added the following extract from Mr. Calhoun's report on roads and canals, submitted to Congress on the 7th of January, 1819, from the Department of War: —

"A judicious system of roads and canals, constructed for the convenience of commerce and the transportation of the mail only, without any reference to military operations, is itself among the most efficient means for the 'more complete defence of the United States.' Without adverting to the fact, that the roads and canals which such a system would require are, with few exceptions, precisely those which would be required for the operations of war; such a system, by consolidating our Union and increasing our wealth and fiscal capacity, would add greatly to our resources in war. It is in a state of war, when a nation is compelled to put all its resources, in men, money, skill, and devotion to country, into

requisition, that its government realizes in its security the beneficial effects from a people made prosperous and happy by a wise direction of its resources in peace.

"Should Congress think proper to commence a system of roads and canals for the 'more complete defence of the United States,' the disbursements of the sum appropriated for the purpose might be made by the Department of War, under the direction of the President. Where incorporated companies are already formed, or the road or canal commenced, under the superintendence of a State, it perhaps would be advisable to direct a subscription on the part of the United States, on such terms and conditions as might be thought proper."

NOTE C. Page 339.

The following resolutions of the Legislature of Virginia bear so pertinently and so strongly on this point of the debate, that they are thought worthy of being inserted in a note, especially as other resolutions of the same body are referred to in the discussion. It will be observed that these resolutions were unanimously adopted in each house.

VIRGINIA LEGISLATURE.

Extract from the Message of Governor Tyler, December 4, 1809.

"A proposition from the State of Pennsylvania is herewith submitted, with Governor Snyder's letter accompanying the same, in which is suggested the propriety of amending the Constitution of the United States, so as to prevent collision between the government of the Union and the State governments."

House of Delegates, *Friday, December* 15, 1809.

On motion, *Ordered*, That so much of the Governor's communication as relates to the communication from the Governor of Pennsylvania, on the subject of an amendment proposed by the Legislature of that State to the Constitution of the United States, be referred to Messrs. Peyton, Otey, Cabell, Walker, Madison, Holt, Newton, Parker, Stevenson, Randolph (of Amelia), Cocke, Wyatt, and Ritchie. — *Journal*, p. 25.

Thursday, January 11, 1810.

Mr. Peyton, from the committee to whom was referred that part of the Governor's communication which relates to the amendment proposed by the State of Pennsylvania to the Constitution of the United States, made the following report: —

The committee to whom was referred the communication of the Gov-

ernor of Pennsylvania, covering certain resolutions of the Legislature of that State, proposing an amendment of the Constitution of the United States, by the appointment of an impartial tribunal to decide disputes between the States and Federal Judiciary, have had the same under their consideration, and are of opinion that a tribunal is already provided by the Constitution of the United States; to wit, the Supreme Court, more eminently qualified, from their habits and duties, from the mode of their selection, and from the tenure of their offices, to decide the disputes aforesaid in an enlightened and impartial manner, than any other tribunal which could be created.

The members of the Supreme Court are selected from those in the United States who are most celebrated for virtue and legal learning, not at the will of a single individual, but by the concurrent wishes of the President and Senate of the United States; they will, therefore, have no local prejudices and partialities. The duties they have to perform lead them, necessarily, to the most enlarged and accurate acquaintance with the jurisdiction of the Federal and State courts together, and with the admirable symmetry of our government. The tenure of their offices enables them to pronounce the sound and correct opinions they may have formed, without fear, favor, or partiality.

The amendment to the Constitution proposed by Pennsylvania seems to be founded upon the idea that the Federal Judiciary will, from a lust of power, enlarge their jurisdiction to the total annihilation of the jurisdiction of the State courts; that they will exercise their will, instead of the law and the Constitution.

This argument, if it proves any thing, would operate more strongly against the tribunal proposed to be created, which promises so little than against the Supreme Court, which for the reasons given before have every thing connected with their appointment calculated to insure confidence. What security have we, were the proposed amendment adopted, that this tribunal would not substitute their will and their pleasure in place of the law? The judiciary are the weakest of the three departments of government, and least dangerous to the political rights of the Constitution; they hold neither the purse nor the sword; and, even to enforce their own judgments and decisions, must ultimately depend upon the executive arm. Should the Federal Judiciary, however, unmindful of their weakness, unmindful of the duty which they owe to themselves and their country, become corrupt, and transcend the limits of their jurisdiction, would the proposed amendment oppose even a probable barrier in such an improbable state of things?

The creation of a tribunal such as is proposed by Pennsylvania, so far as we are able to form an idea of it, from the description given in the resolutions of the Legislature of that State, would, in the opinion of

your committee, tend rather to invite than to prevent collisions between the Federal and State courts. It might also become, in process of time, a serious and dangerous embarrassment to the operations of the general government.

Resolved, therefore, That the Legislature of this State do disapprove of the amendment to the Constitution of the United States proposed by the Legislature of Pennsylvania.

Resolved, also, That his Excellency, the Governor, be, and he is hereby, requested to transmit forthwith a copy of the foregoing preamble and resolutions to each of the Senators and Representatives of this State in Congress, and to the executive of the several States in the Union, with a request that the same be laid before the legislatures thereof.

The said resolutions, being read a second time, were, on motion, ordered to be referred to a committee of the whole house on the state of the Commonwealth.

Tuesday, January 23, 1810.

The House, according to the order of the day, resolved itself into a committee of the whole house on the state of the Commonwealth, and, after some time spent therein, Mr. Speaker resumed the chair, and Mr. Stanard of Spottsylvania reported that the committee had, according to order, had under consideration the preamble and resolutions of the select committee to whom was referred that part of the Governor's communication which relates to the amendment proposed to the Constitution of the United States by the Legislature of Pennsylvania, had gone through with the same, and directed him to report them to the house without amendment; which he handed in at the clerk's table.

And the question being put on agreeing to the said preamble and resolutions, they were agreed to by the House unanimously.

Ordered, That the clerk carry the said preamble and resolutions to the Senate, and desire their concurrence.

In Senate, *Wednesday, January* 24, 1810.

The preamble and resolutions on the amendment to the Constitution of the United States proposed by the Legislature of Pennsylvania, by the appointment of an impartial tribunal to decide disputes between the States and Federal Judiciary, being also delivered in and twice read, on motion, were ordered to be committed to Messrs. Nelson, Currie, Campbell, Upshur, and Wolfe.

Friday, January 26, 1810.

Mr. Nelson reported, from the committee to whom was committed the

preamble and resolutions on the amendment proposed by the Legislature of Pennsylvania, &c., that the committee had, according to order, taken the said preamble, &c., under their consideration, and directed him to report them without any amendment.

And on the question being put thereupon, the same was agreed to *unanimously.*

THE NOMINATION OF MR. VAN BUREN AS MINISTER TO ENGLAND.*

Mr. President, as it is highly probable that our proceedings on this nomination will be published, I deem it proper to state shortly the considerations which have influenced my opinion, and will decide my vote.

I regard this as a very important and delicate question. It is full of responsibility; and I feel the whole force of that responsibility. While I have been in the Senate, I have opposed no nomination of the President, except for cause; and I have at all times thought that such cause should be plain and sufficient; that it should be real and substantial, not unfounded or fanciful.

I have never desired, and do not now desire, to encroach in the slightest degree on the constitutional powers of the chief magistrate of the nation. I have heretofore gone far, very far, in assenting to nominations which have been submitted to us. I voted for the appointment of all the gentlemen who composed the first cabinet; I have opposed no nomination of a foreign minister; and I have not opposed the nominations recently before us, for the reorganization of the administration. I have always been especially anxious, that, in all matters relating to our intercourse with other nations, the utmost harmony, the greatest unity of purpose, should exist between the President and the Senate. I know how much of usefulness to the public service such harmony and union are calculated to produce.

I am now fully aware, Sir, that it is a serious, a very serious matter, to vote against the confirmation of a minister to a foreign court, who has already gone abroad, and has been received

* Remarks made in Secret Session of the Senate of the United States, on the 24th of January, 1832, on the Nomination of Mr. Van Buren as Minister to Great Britain.

and accredited by the government to which he is sent. I am aware that the rejection of this nomination, and the necessary recall of the minister, will be regarded by foreign states, at the first blush, as not in the highest degree favorable to the character of our government. I know, moreover, to what injurious reflections one may subject himself, especially in times of party excitement, by giving a negative vote on such a nomination. But, after all, I am placed here to discharge *a duty*. I am not to go through a formality; I am to perform a substantial and responsible *duty*. I am to *advise* the President in matters of appointment. This is my constitutional obligation; and I shall perform it conscientiously and fearlessly. I am bound to say, then, Sir, that, for one, I do not advise nor consent to this nomination. I do not think it a fit and proper nomination; and my reasons are found in the letter of instructions written by Mr. Van Buren, on the 20th of July, 1829, to Mr. McLane, then going to the court of England, as American Minister. I think these instructions derogatory, in a high degree, to the character and honor of the country. I think they show a manifest disposition in the writer of them to establish a distinction between his country and his party; to place that party above the country; to make interest at a foreign court for that party rather than for the country; to persuade the English ministry, and the English monarch, that *they* have an interest in maintaining in the United States the ascendency of the party to which the writer belongs. Thinking thus of the purpose and object of these instructions, I cannot be of opinion that their author is a proper representative of the United States at that court. Therefore it is, that I propose to vote against his nomination. It is the first time, I believe, in modern diplomacy, it is certainly the first time in our history, in which a minister to a foreign court has sought to make favor for one party at home against another, or has stooped from being the representative of the whole country to be the representative of a party. And as this is the first instance in our history of any such transaction, so I intend to do all in my power to make it the last. For one, I set my mark of disapprobation upon it; I contribute my voice and my vote to make it a negative example, to be shunned and avoided by all future ministers of the United States. If, in a deliberate and formal letter of instructions, admonitions and directions are

given to a minister, and repeated, once and again, to urge these mere party considerations on the foreign government, to what extent is it probable the writer himself will be disposed to urge them, in his thousand opportunities of informal intercourse with the agents of that government?

I propose, Sir, to refer to some particular parts of these instructions; but before I do that, allow me to state, very generally, the posture of the subject to which those particulars relate. That subject is the state of our trade with the British West India colonies. I do not deem it necessary now to go minutely into all the history of that trade. The occasion does not call for it. All know, that, by the convention of 1815, a reciprocity of intercourse was established between us and Great Britain. The ships of both countries were allowed to pass to and from each other respectively, with the same cargoes, and subject to the same duties. But this arrangement did not extend to the British West Indies. There our intercourse was cut off. Various discriminating and retaliatory acts were passed by England and by the United States. Eventually, in the summer of 1825, the English Parliament passed an act, offering reciprocity, *so far as the mere carrying trade was concerned*, to all nations who might choose, within one year, to accept that offer.

Mr. Adams's administration did not accept that offer; first, because it was never officially communicated to it; secondly, because, only a few months before, a negotiation on the very same subject had been suspended, with an understanding that it might be resumed; and, thirdly, because it was very desirable to arrange the whole matter, if possible, by treaty, in order to secure, if we could, *the admission of our products into the British islands for consumption*, as well as the admission of our vessels. This object had been earnestly pursued ever since the peace of 1815. It was insisted on, as every body knows, through the whole of Mr. Monroe's administration. He would not treat at all, without treating of this object. He thought the existing state of things better than any arrangement which, while it admitted our *vessels* into West India ports, still left our *productions* subject to such duties there, that they could not be carried.

Now, Sir, Mr. Adams's administration was not the first to take this ground. It only occupied the same position which its

predecessor had taken. It saw no important objects to be gained by changing the state of things, unless that change was to admit our products into the British West Indies directly from our ports, and not burdened with excessive duties. The direct trade, by English enactments and American enactments, had become closed. No British ship came here from the British West Indies. No American ship went hence to those places. A circuitous trade took place through the islands of third powers; and that circuitous trade was, in many respects, not disadvantageous to us.

In this state of things, Sir, Mr. McLane was sent to England; and he received his instructions from the Secretary of State. In these instructions, and in relation to this subject of the colonial trade, are found the sentiments of which I complain. What are they? Let us examine and see.

Mr. Van Buren tells Mr. McLane, "The opportunities which you have derived from a participation in our public counsels, as well as other sources of information, will enable you to speak with confidence (as far as you may deem it proper and useful so to do) of the respective parts taken by those to whom the administration of this government is now committed, in relation to the course heretofore pursued upon the subject of the colonial trade."

Now, this is neither more nor less than saying, "You will be able to tell the British minister, whenever you think proper, that you, and I, and the leading persons in this administration, have opposed the course heretofore pursued by the government, and the country, on the subject of the colonial trade. Be sure to let him know, that, on that subject, we have held with England, and not with our own government." Now, I ask you, Sir. if this be dignified diplomacy. Is this statesmanship? Is it patriotism, or is it mere party? Is it a proof of a high regard to the honor and renown of the whole country, or is it evidence of a disposition to make a merit of belonging to one of its political divisions?

The Secretary proceeds: "Their views" (that is, the views of the present administration) "upon that point have been submitted to the people of the United States; and the counsels by which your conduct is now directed are the result of the judgment expressed by the only earthly tribunal to which the late administration was amenable for its acts."

Now, Sir, in the first place, there is very little reason to suppose that the *first* part of this paragraph is true, in point of fact; I mean that part which intimates that the change of administration was brought about by public disapprobation of Mr. Adams's conduct respecting the subject of the colonial trade. Possibly so much was then said on a subject which so few understood, that some degree of impression may have been produced by it. But be assured, Sir, another cause will be found, by future historians, for this change; and that cause will be the popularity of a successful soldier, united with a feeling, made to be considerably extensive, that the preferences of the people in his behalf had not been justly regarded on a previous occasion. There is, Sir, very little ground to say that "the only tribunal to which the late administration was amenable" has pronounced any judgment against it for its conduct on the whole subject of the colonial trade.

But, however this may be, the *other* assertion in the paragraph is manifestly quite wide of the facts. Mr. Adams's administration did not bring forward this claim. I have stated, already, that it had been a subject both of negotiation and legislation through the whole eight years of Mr. Monroe's administration. This the Secretary knew, or was bound to know. Why, then, does he speak of it as set up by the late administration, and afterwards abandoned by them, and not now revived?

But the most humiliating part of the whole follows: — "To set up the acts of the late administration as the cause of forfeiture of privileges which would otherwise be extended to the people of the United States, would, under existing circumstances, be unjust in itself, and could not fail to excite their deepest sensibility."

So, then, Mr. President, we are reduced, are we, to the poor condition, that we see a minister of this great republic instructed to argue, or to intercede, with the British minister, lest he should find us to have forfeited our privileges; and lest these privileges should no longer be extended to us! And we have forfeited those privileges by our misbehavior in choosing rulers, who thought better of our own claim than of the British! Why, Sir, this is patiently submitting to the domineering tone of the British minister, I believe Mr. Huskisson — [Mr. Clay said, "No,

Mr. Canning."] — Mr. Canning, then, Sir, who told us that all our trade with the West Indies was a boon, granted to us by the indulgence of England. The British minister calls it a boon, and our minister admits it as a privilege, and hopes that his Majesty will be too gracious to decide that we have forfeited this privilege, by our misbehavior in the choice of our rulers! Sir, for one, I reject all idea of holding any right of trade, or any other rights, as a privilege or a boon from the British government, or any other government.

At the conclusion of the paragraph, the Secretary says, "You cannot press this view of the subject too earnestly upon the consideration of the British ministry. It has bearings and relations that reach beyond the immediate question under discussion."

Adverting again to the same subject, towards the close of the despatch, he says, "I will add nothing as to the impropriety of suffering any feelings that find their origin in the past pretensions of this government to have an adverse influence upon the present conduct of Great Britain."

I ask again, Mr. President, if this be statesmanship? if this be dignity? if this be elevated regard for country? Can any man read this whole despatch with candor, and not admit that it is plainly and manifestly the writer's intention to promote the interests of his party at the expense of those of the country?

Lest I should do the Secretary injustice, I will read all that I find, in this letter, upon this obnoxious point. These are the paragraphs: —

"Such is the present state of our commercial relations with the British colonies; and such the steps by which we have arrived at it. In reviewing the events which have preceded, and more or less contributed to, a result so much to be regretted, there will be found three grounds upon which we are most assailable; — 1st. In our too long and too tenaciously resisting the right of Great Britain to impose protecting duties in her colonies; 2d," &c.

"The opportunities which you have derived from a participation in our public counsels, as well as other sources of information, will enable you to speak with confidence (as far as you may deem it proper and useful so to do) of the respective parts taken by those to whom the administration of this government is now committed, in relation to the course heretofore pursued upon the subject of the colonial trade. Their

views upon that point have been submitted to the people of the United States; and the counsels by which your conduct is now directed are the result of the judgment expressed by the only earthly tribunal to which the late administration was amenable for its acts. It should be sufficient that the claims set up by them, and which caused the interruption of the trade in question, have been explicitly abandoned by those who first asserted them, and are not revived by their successors. If Great Britain deems it adverse to her interests to allow us to participate in the trade with her colonies, and finds nothing in the extension of it to others to induce her to apply the same rule to us, she will, we hope, be sensible of the propriety of placing her refusal on those grounds. To set up the acts of the late administration as the cause of forfeiture of privileges which would otherwise be extended to the people of the United States, would, under existing circumstances, be unjust in itself, and could not fail o excite their deepest sensibility. The tone of feeling which a course so unwise and untenable is calculated to produce, would doubtless be greatly aggravated by the consciousness that Great Britain has, by order in council, opened her colonial ports to Russia and France, notwithstanding a similar omission on their part to accept the terms offered by the act of July, 1825. You cannot press this view of the subject too earnestly upon the consideration of the British ministry. It has bearings and relations that reach beyond the immediate question under discussion."

"I will add nothing as to the impropriety of suffering any feelings that find their origin in the past pretensions of this government to have an adverse influence upon the present conduct of Great Britain."

Sir, I submit to you, and to the candor of all just men, if I am not right in saying that the pervading topic, through the whole, is, not American rights, not American interests, not American defence, but denunciation of past pretensions of our own country, reflections on the past administration, and exultation and a loud claim of merit for the administration now in power. Sir, I would forgive mistakes; I would pardon the want of information; I would pardon almost any thing, where I saw true patriotism and sound American feeling; but I cannot forgive the sacrifice of this feeling to mere party. I cannot concur in sending abroad a public agent, who has not conceptions so large and liberal as to feel, that, in the presence of foreign courts, amidst the monarchies of Europe, he is to stand up for his country, and his whole country; that no jot nor tittle of her honor is to suffer in his hands; that he is not to allow others to reproach either his government or his country

and far less is he himself to reproach either; that he is to have no objects in his eye but American objects, and no heart in his bosom but an American heart; and that he is to forget self, and forget party, to forget every sinister and narrow feeling, in his proud and lofty attachment to the republic whose commission he bears.

Mr. President, I have discharged an exceedingly unpleasant duty, the most unpleasant of my public life. But I have looked upon it *as a duty*, and it was not to be shunned. And, Sir, however unimportant may be the opinion of so humble an individual as myself, I now only wish that I might be heard by every independent freeman in the United States, by the British minister and the British king, and by every minister and every crowned head in Europe, while, standing here in my place, I pronounce my rebuke, as solemnly and as decisively as I can, upon this first instance in which an American minister has been sent abroad as the representative of his party, and not as the representative of his country.

FURTHER REMARKS ON THE SAME SUBJECT.*

In reply to some remarks of Mr. Forsyth, Mr. Webster spoke as follows: —

It is, in my judgment, a great mistake to suppose that what is now called the American "pretension" originated with Mr. Adams, either as President or Secretary of State. By the way, it is singular enough that the American side of this question is called, in the instructions before us, a pretension too long persisted in; while the British side of it is called a right, too long and too tenaciously resisted by us. This courteous mode of speaking of the claims of a foreign government, and this reproachful mode of speaking of the claims of our own, is certainly somewhat novel in diplomacy. But whether it be called, respectfully, a claim, or, reproachfully, a pretension, it did not originate with Mr. Adams. It had a much earlier origin. This "preten-

* In Secret Session of the Senate, on the 26th of January, 1832

sion," now abandoned with so much scorn, or this claim, said, reproachfully, to have been first set up by the late administration, originated with George Washington. He put his own hand to it. He insisted on it; and he would not treat with England on the subject of the colonial trade without consid ering it.

In his instructions to Mr. Morris, under his own hand, in October, 1789, President Washington says: —

"Let it be strongly impressed on your mind, that the privilege of carrying our productions in our vessels to their islands, and bringing in return the productions of those islands to our own ports and markets, is regarded here as of the highest importance; and you will be careful not to countenance any idea of our dispensing with it in a treaty. Ascertain, if possible, their views on this subject; for it would not be expedient to commence negotiations without previously having good reasons to expect a satisfactory termination of them."

Observe, Sir, that President Washington, in these instructions, is not speaking of the empty and futile right of sending our own vessels without cargoes to the British West Indies; but he is speaking of the substantial right of carrying our own products to the islands, for sale and for consumption there. And whether these products were shut out by a positive act of Parliament, or by a tariff of duties absolutely and necessarily prohibitory, could make no difference. The object was to provide by treaty, if it could be done, that our products should find their way, effectually and profitably, into the markets of the British West Indies. This was General Washington's object. This was the "pretension" which *he* set up.

It is well known, Sir, that no satisfactory arrangement was made in General Washington's time respecting our trade with the British West Indies. But the breaking out of the French Revolution, and the wars which it occasioned, were causes which of themselves opened the ports of the West Indies. During the long continuance of those wars, our vessels, with cargoes of our own products, found their way into the British West India Islands, under a practical relaxation of the British colonial system. While this condition of things lasted, we did very well without a particular treaty. But on the general restoration of peace, in 1815, Great Britain returned to her former system; then the islands were shut against us; and then it

became necessary to treat on the subject, and our ministers were, successively, instructed to treat, from that time forward. And, Sir, I undertake to say, that neither Mr. Madison, who was then President, nor his successor, Mr. Monroe, gave any authority or permission to any American minister to abandon this pretension, or even to waive it or postpone it, and make a treaty without providing for it. No such thing. On the contrary, it will appear, I think, if we look through papers which have been sent to the Senate, that, under Mr. Madison's administration, our minister in England was fully instructed on this subject, and expected to press it. As to Mr. Monroe, I have means of being informed, in a manner not liable to mistake, that he was on this subject always immovable. He would not negotiate without treating on this branch of the trade; nor did I ever understand, that, in regard to this matter, there was any difference of opinion whatever among the gentlemen who composed Mr. Monroe's cabinet. Mr. Adams, as Secretary of State, wrote the despatches and the instructions; but the policy was the policy of the whole administration, as far as I ever understood. Certain it is, it was the settled and determined policy of Mr. Monroe himself. Indeed, Sir, so far is it from being true that this *pretension* originated with Mr. Adams, that it was in his administration that, for the first time, permission was given, under very peculiar circumstances, and with instructions, to negotiate a treaty, waiving this part of the question. This has been already alluded to, and fully explained, by the honorable member from Kentucky.

So, then, Sir, this *pretension*, asserted in the instructions to have been first set up by the late administration, is shown to have had President Washington for its author, and to have received the countenance of every President who had occasion to act on the subject, from 1789 down to the time of the present administration.

But this is not all. Congress itself has sanctioned the same "pretension." The act of the 1st of March, 1823, makes it an express condition upon which, and upon which alone, our ports shall be opened to British vessels and cargoes from the West Indies on paying the same duties as our vessels and cargoes, *that our products shall be admitted into those islands without paying any other or higher duties than shall be paid on similar productions*

coming from elsewhere. All this will be seen by reference to the third section of that act. Now remember, Sir, that this act of Congress passed in March, 1823, two years before the commencement of Mr. Adams's administration. The act originated in the Senate. The honorable Senator from Maryland,* who has spoken on this subject to-day, was then a member of the Senate, and took part in the discussion of this very bill; and he supported it, and voted for it. It passed both houses, without material opposition in either. How is it possible, after referring to this law of 1823, to find any apology for the assertion contained in these instructions, that this claim is a pretension first set up by Mr. Adams's administration? How is it possible that this law could have been overlooked or not remembered? In short, Sir, with any tolerable acquaintance with the history of the negotiations of the United States or their legislation, how are we to account for it that such an assertion as these instructions contain should have found its way into them?

But the honorable member from Georgia asks why we lay all this to the charge of the Secretary, and not to the charge of the President. The answer is, the President's conduct is not before us. We are not, and cannot become, his accusers, even if we thought there were any thing in his conduct which gave cause for accusation. But the Secretary *is* before us. Not brought before us by any act of ours, but placed before us by the President's nomination. On that nomination we cannot decline to act. We must either confirm or reject it. As to the notion that the Secretary of State was but the instrument of the President, and so not responsible for these instructions, I reject at once all such defence, excuse, or apology, or whatever else it may be called. If there be any thing in a public despatch derogatory to the honor of the country, as I think there is in this, it is enough for me that I see whose hand is to it. If it be said, that the signer was only an instrument in the hands of others, I reply, that I cannot concur in conferring a high public diplomatic trust on any one who has consented, under any circumstances, to be an instrument in such a case.

The honorable member from Georgia asks, also, why we have slept on this subject, and why, at this late day, we bring forward

* Mr. Smith.

complaints. Sir, nobody has slept upon it. Since these instructions have been made public, there has been no previous opportunity to discuss them. The honorable member will recollect, that the whole arrangement with England was made and completed before these instructions saw the light. The President opened the trade by his proclamation, in October, 1830; but these instructions were not publicly sent to Congress till long afterwards, that is, till January, 1831. They were not then sent with any view that either house should act upon the subject, for the whole business was already settled. For one, I never saw the instructions, nor heard them read, till January, 1831; nor did I ever hear them spoken of as containing these obnoxious passages. This, then, is the first opportunity for considering these instructions.

That they have been subjects of complaint out doors since they were made public, and of much severe animadversion, is certainly true. But, until now, there never has been an opportunity naturally calling for their discussion here. The honorable gentleman may be assured, that, if such occasion had presented itself, it would have been embraced.

I entirely forbear, Mr. President, from going into the merits of the late arrangement with England, as a measure of commercial policy. Another time will come, I trust, more suitable for that discussion. For the present, I confine myself strictly to such parts of the instructions as I think plainly objectionable, whatever may be the character of the agreement between us and England, as matter of policy. I repeat, Sir, that I place the justification of my vote on the *party* tone and *party* character of these instructions. Let us ask, If such considerations as these are to be addressed to a foreign government, what is that foreign government to expect in return? The ministers of foreign courts will not bestow gratuitous favors, nor even gratuitous smiles, on American parties. What, then, I repeat, is to be the return? What is party to do for that foreign government which has done, is expected to do, or is asked to do, something for party? What is to be the consideration paid for this foreign favor? Sir, must not every man see, that any mixture of such causes or motives of action in our foreign intercourse is as full of danger as it is of dishonor?

I will not pursue the subject. I am anxious only to make

my own ground fully and clearly understood; and willingly leave every other gentleman to his own opinions. And I cheerfully submit my own vote to the opinions of the country. I willingly leave it to the people of the United States to say, whether I am acting a factious and unworthy part, or the part of a true-hearted American, in withholding my approbation from the nomination of a gentleman as minister to England, who has already, as it appears to me, instructed his predecessor at the same court to carry party considerations, to argue party merits, and solicit party favors, at the foot of the British throne.

Note. — The circumstance did not occur to Mr. Webster's recollection at the moment he was speaking, but the truth is, that Mr. Van Buren was himself a member of the Senate at the very time of the passing of the law of 1823, and Mr. McLane was at the same time a member of the House of Representatives. So that Mr. Van Buren did himself certainly concur in "setting up this pretension," two years before Mr. Adams became President.

APPORTIONMENT OF REPRESENTATION.*

THE object of the following report is to set forth the unjust operation of the rule by which the apportionment of Representatives had hitherto been made among the States, and was proposed to be made under the fifth census. Notwithstanding the manifest unequal operation of the rule, and the cogency of the arguments against it contained in this report, Congress could not be brought on this occasion, nor on that of the next decennial apportionment, to apply the proper remedy.

In making provision for the apportionment under the census of 1850, the principles of this report prevailed. By the act of the 23d of May, 1850, it is provided that the number of the new House shall be 233. The entire representative population of the United States is to be divided by this sum; and the quotient is the ratio of apportionment among the several States. Their representative population is in turn to be divided by this ratio; and the loss of members arising from the residuary numbers is made up by assigning as many additional members as are necessary for that purpose to the States having the largest fractional remainders. It was a further very happy provision of the law of the 23d of May, 1850, that this apportionment should be made by the Secretary of the Interior, after the returns of the census should have been made, and without the necessity of any further action on the part of Congress.

THE Select Committee, to whom was referred, on the 27th of March, the bill from the House of Representatives, entitled, "An Act for the Apportionment of Representatives among the several States according to the Fifth Census," have had the subject under consideration, and now ask leave to report:

THIS bill, like all laws on the same subject, must be regarded as of an interesting and delicate nature. It respects the distri-

* A Report on the Subject of the Apportionment of Representation, in the House of Representatives of the United States, made in the Senate, on the 5th of April, 1832.

bution of political power among the States of the Union. It is to determine the number of voices which, for ten years to come, each State is to possess in the popular branch of the legislature. In the opinion of the committee, there can be few or no questions which it is more desirable to settle on just, fair, and satisfactory principles, than this; and, availing themselves of the benefit of the discussion which the bill has already undergone in the Senate, they have given to it a renewed and anxious consideration. The result is, that, in their opinion, the bill ought to be amended. Seeing the difficulties which belong to the whole subject, they are fully convinced that the bill has been framed and passed in the other House with the sincerest desire to overcome these difficulties, and to enact a law which should do as much justice as possible to all the States. But the committee are constrained to say, that this object appears to them not to have been attained. The unequal operation of the bill on some of the States, should it become a law, seems to the committee most manifest; and they cannot but express a doubt whether its actual apportionment of the representative power among the several States can be considered as conformable to the spirit of the Constitution.

The bill provides, that from and after the 3d of March, 1833, the House of Representatives shall be composed of members elected agreeably to a ratio of one Representative for every forty-seven thousand and seven hundred persons in each State, computed according to the rule prescribed by the Constitution. The addition of the seven hundred to the forty-seven thousand, in the composition of this ratio, produces no effect whatever in regard to the constitution of the House. It neither adds to nor takes from the number of members assigned to any State. Its only effect is a reduction of the apparent amount of the fractions, as they are usually called, or residuary numbers, after the application of the ratio. For all other purposes, the result is precisely the same as if the ratio had been forty-seven thousand.

As it seems generally admitted that inequalities do exist in this bill, and that injurious consequences will arise from its operation, which it would be desirable to avert, if any proper means of averting them, without producing others equally injurious, could be found, the committee do not think it necessary

to go into a full and particular statement of these consequences. They will content themselves with presenting a few examples only of these results, and such as they find it most difficult to reconcile with justice and the spirit of the Constitution.

In exhibiting these examples, the committee must necessarily speak of particular States; but it is hardly necessary to say, that they speak of them as examples only, and with the most perfect respect, not only for the States themselves, but for all those who represent them here.

Although the bill does not commence by fixing the whole number of the proposed House of Representatives, yet the process adopted by it brings out the number of two hundred and forty members. Of these two hundred and forty members, forty are assigned to the State of New York; that is to say, precisely one sixth part of the whole. This assignment would seem to require that New York should contain one sixth part of the whole population of the United States, and should be bound to pay one sixth part of all direct taxes. Yet neither of these is the case. The whole representative population of the United States is 11,929,005; that of New York is 1,918,623, which is less than one sixth of the whole, by nearly 70,000. Of a direct tax of two hundred and forty thousand dollars, New York would pay only $38.59.

But if, instead of comparing the numbers assigned to New York with the whole numbers of the House, we compare her with other States, the inequality is still more evident and striking. To the State of Vermont the bill assigns five members. It gives, therefore, eight times as many Representatives to New York as to Vermont; but the population of New York is not equal to eight times the population of Vermont, by more than three hundred thousand. Vermont has five members only for 280,657 persons. If the same proportion were to be applied to New York, it would reduce the number of her members from forty to *thirty-four*, making a difference more than equal to the whole representation of Vermont, and more than sufficient to overcome her whole power in the House of Representatives.

A disproportion almost equally striking is manifested, if we compare New York with Alabama. The population of Alabama is 262,203; for this she is allowed five members. The rule of proportion which gives to her but five members for her number,

would give to New York but thirty-six for her number. Yet New York receives forty. As compared with Alabama, then, New York has an excess of representation equal to four fifths of the whole representation of Alabama; and this excess itself will give her, of course, as much weight in the House as the whole delegation of Alabama, within a single vote. Can it be said, then, that Representatives are apportioned to these States according to their respective numbers?

The ratio assumed by the bill, it will be perceived, leaves large fractions, so called, or residuary numbers, in several of the small States, to the manifest loss of a great part of their just proportion of representative power. Such is the operation of the ratio, in this respect, that New York, with a population less than that of New England by thirty or thirty-five thousand, has yet two more members than all the New England States; and there are seven States in the Union, represented, according to the bill, by one hundred and twenty-three members, being a clear majority of the whole House, whose aggregate fractions, all together, amount only to fifty-three thousand; while Vermont and New Jersey, having together but eleven members, have a joint fraction of seventy-five thousand.

Pennsylvania, by the bill, will have, as it happens, just as many members as Vermont, New Hampshire, Massachusetts, and New Jersey; but her population is not equal to theirs by a hundred and thirty thousand; and the reason of this advantage, derived to her from the provision of the bill, is, that her fraction, or residuum, is twelve thousand only, while theirs is a hundred and forty-four thousand.

But the subject is capable of being presented in a more exact and mathematical form. The House is to consist of two hundred and forty members. Now, the precise portion of power, out of the whole mass presented by the number of two hundred and forty, to which New York would be entitled according to her population, is 38.59; that is to say, she would be entitled to thirty-eight members, and would have a residuum or fraction; and even if a member were given her for that fraction, she would still have but thirty-nine. But the bill gives her forty.

These are a part, and but a part, of those results, produced by the bill in its present form, which the committee cannot bring

themselves to approve. While it is not to be denied, that, under any rule of apportionment, some degree of relative inequality must always exist, the committee cannot believe that the Senate will sanction inequality and injustice to the extent in which they exist in this bill, if it can be avoided. But, recollecting the opinions which had been expressed in the discussions of the Senate, the committee have diligently sought to learn whether there was not some other number which might be taken for a ratio, the application of which would produce more justice and equality. In this pursuit, the committee have not been successful. There are, it is true, other numbers, the adoption of which would relieve many of the States which suffer under the present; but this relief would be obtained only by shifting the pressure to other States, thus creating new grounds of complaint in other quarters. The number 44,000 has been generally spoken of as the most acceptable substitute for 47,700; but should this be adopted, great relative inequality would fall on several States, and, among them, on some of the new and growing States, whose relative disproportion, thus already great, would be constantly increasing.

The committee, therefore, are of opinion that the bill should be altered in the mode of apportionment. They think that the process which begins by assuming a ratio should be abandoned, and that the bill ought to be framed on the principle of the amendment which has been the main subject of discussion before the Senate. The fairness of the principle of this amendment, and the general equity of its results, compared with those which flow from the other process, seem plain and undeniable. The main question has been, whether the principle itself be constitutional, and this question the committee proceed to examine, respectfully asking of those who have doubted its constitutional propriety to consider the question of so much importance as to justify a second reflection.

The words of the Constitution are, —

"Representatives and direct taxes shall be apportioned among the several States, which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians, three fifths of all other persons. The actual enumeration shall be made within three years after the first

meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative."

There would seem to be little difficulty in understanding these provisions. The terms used are designed, doubtless, to be received in no peculiar or technical sense, but according to their common and popular acceptation. To *apportion* is to distribute by right measure, to set off in just parts, to assign in due and proper proportion. These clauses of the Constitution respect not only the portions of power, but the portions of the public burden, also, which should fall to the several States; and the same language is applied to both. Representatives are to be apportioned among the States according to their respective numbers, and direct taxes are to be apportioned by the same rule. The end aimed at is, that representation and taxation should go hand in hand; that each State should be represented in the same extent to which it is made subject to the public charges by direct taxation. But between the apportionment of Representatives and the apportionment of taxes, there necessarily exists one essential difference. Representation founded on numbers must have some limit, and being, from its nature, a thing not capable of indefinite subdivision, it cannot be made precisely equal. A tax, indeed, cannot always, or often, be apportioned with perfect exactness; as in other matters of account, there will be fractional parts of the smallest coins, and the smallest denomination of money of account; yet, by the usual subdivisions of the coin, and of the denominations of money, the apportionment of taxes is capable of being made so exact, that the inequality becomes minute and invisible. But representation cannot be thus divided. Of representation, there can be nothing less than one Representative; nor, by our Constitution, more Representatives than one for every thirty thousand. It is quite obvious, therefore, that the apportionment of representative power can never be precise and perfect. There must always exist some degree of inequality. Those who framed and those who adopted the Constitution were, of course, fully acquainted with this necessary operation of the provision. In the Senate, the States are entitled to a fixed number of Senators; and therefore, in regard to their representation in that body, there is no consequential

or incidental inequality. But, being represented in the House of Representatives according to their respective numbers of people, it is unavoidable that, in assigning to each State its number of members, the exact proportion of each, out of a given number, cannot always or often be expressed in whole numbers; that is to say, it will not often be found that there belongs to a State exactly one tenth, or one twentieth, or one thirtieth of the whole House; and therefore no number of Representatives will exactly correspond with the right of such State, or the precise share of representation which belongs to it, according to its population.

The Constitution, therefore, must be understood, not as enjoining an absolute relative equality, because that would be demanding an impossibility, but as requiring of Congress to make the apportionment of Representatives among the several States according to their respective numbers, *as near as may be.* That which cannot be done perfectly must be done in a manner as near perfection as can be. If exactness cannot, from the nature of things, be attained, then the nearest practicable approach to exactness ought to be made.

Congress is not absolved from all rule merely because the rule of perfect justice cannot be applied. In such a case, approximation becomes a rule; it takes the place of that other rule, which would be preferable, but which is found inapplicable, and becomes itself an obligation of binding force. The nearest approximation to exact truth or exact right, when that exact truth or that exact right cannot itself be reached, prevails in other cases, not as matter of discretion, but as an intelligible and definite rule, dictated by justice and conforming to the common sense of mankind; a rule of no less binding force in cases to which it is applicable, and no more to be departed from, than any other rule or obligation.

The committee understand the Constitution as they would have understood it if it had said, in so many words, that Representatives should be apportioned among the States according to their respective numbers, *as near as may be.* If this be not its true meaning, then it has either given, on this most delicate and important subject, a rule which is always impracticable, or else it has given no rule at all; because, if the rule be that Representatives shall be apportioned *exactly* according to numbers, it is

impracticable in every case; and if, for this reason, that cannot be the rule, then there is no rule whatever, unless the rule be that they shall be apportioned *as near as may be.*

This construction, indeed, which the committee adopt, has not, to their knowledge, been denied; and they proceed in the discussion of the question before the Senate, taking for granted that such is the true and undeniable meaning of the Constitution.

The next thing to be observed is, that the Constitution prescribes no particular process by which this apportionment is to be wrought out. It has plainly described the end to be accomplished, namely, the nearest approach to relative equality of representation among the States; and whatever accomplishes this end, and nothing else, is the true process. In truth, if, without any process whatever, whether elaborate or easy, Congress could perceive the exact proportion of representative power rightfully belonging to each State, it would perfectly fulfil its duty by conferring that portion on each, without reference to any process whatever. It would be enough that the proper end had been attained. And it is to be remarked, further, that, whether this end be attained best by one process or by another, becomes, when each process has been carried through, not matter of opinion, but matter of mathematical certainty. If the whole population of the United States, the population of each State, and the proposed number of the House of Representatives, be all given, then, between two bills apportioning the members among the several States, it can be told with absolute certainty which bill assigns to any and every State the number nearest to the exact proportion of that State; in other words, which of the two bills, if either, apportions the Representatives according to the numbers in the States, respectively, *as near as may be.* If, therefore, a particular process of apportionment be adopted, and objection be made to the injustice or inequality of its result, it is surely no answer to such objection to say, that the inequality necessarily results from the nature of the process. Before such answer could avail, it would be necessary to show, either that the Constitution prescribes such process, and makes it necessary, or that there is no other mode of proceeding which would produce less inequality and less injustice. If inequality, which might have otherwise been avoided, be produced by a given

process, then that process is a wrong one. It is not suited to the case, and should be rejected.

Nor do the committee perceive how it can be matter of constitutional propriety or validity, or in any way a constitutional question, whether the process which may be applied to the case be simple or compound, one process or many processes; since, in the end, it may always be seen whether the result be that which has been aimed at, namely, the nearest practicable approach to precise justice and relative equality. The committee, indeed, are of opinion, in this case, that the simplest and most obvious way of proceeding is also the true and constitutional way. To them it appears, that, in carrying into effect this part of the Constitution, the first thing naturally to be done is to decide on the whole number of which the House is to be composed; as when, under the same clause of the Constitution, a tax is to be apportioned among the States, the amount of the whole tax is, in the first place, to be settled.

When the whole number of the proposed House is thus ascertained and fixed, it becomes the entire representative power of all the people in the Union. It is then a very simple matter to ascertain how much of this representative power each State is entitled to by its numbers. If, for example, the House is to contain two hundred and forty members, then the number 240 expresses the representative power of all the States; and a plain calculation readily shows how much of this power belongs to each State. This portion, it is true, will not always, nor often, be expressed in whole numbers, but it may always be precisely exhibited by a decimal form of expression. If the portion of any State be seldom or never one exact tenth, one exact fifteenth, or one exact twentieth, it will still always be capable of precise decimal expression, as one tenth and two hundredths, one twelfth and four hundredths, one fifteenth and six hundredths, and so on. And the exact portion of the State, being thus decimally expressed, will always show, to mathematical certainty, what integral number comes nearest to such exact portion. For example, in a House consisting of 240 members, the exact mathematical proportion to which her numbers entitle the State of New York is 38.59; it is certain, therefore, that 39 is the integral or whole number nearest to her exact proportion of the representative power of the Union. Why, then, should she not

have thirty-nine? and why should she have forty? She is not quite entitled to thirty-nine; that number is something more than her right. But allowing her thirty-nine, from the necessity of giving her whole numbers, and because that is the nearest whole number, is not the Constitution fully obeyed when she has received the thirty-ninth member? Is not her proper number of Representatives then apportioned to her, as near as may be? And is not the Constitution disregarded when the bill goes further, and gives her a fortieth member? For what is such a fortieth member given? Not for her absolute numbers, for her absolute numbers do not entitle her to thirty-nine. Not for the sake of apportioning her members to her numbers as near as may be, because thirty-nine is a nearer apportionment of members to numbers than forty. But it is given, say the advocates of the bill, because the *process* which has been adopted gives it. The answer is, No such process is enjoined by the Constitution.

The case of New York may be compared, or contrasted, with that of Missouri. The exact proportion of Missouri, in a general representation of 240, is two and six tenths; that is to say, it comes nearer to three members than to two, yet it is confined to two. But why is not Missouri entitled to that number of Representatives which comes nearest to her exact proportion? Is the Constitution fulfilled as to her, while that number is withheld, and while, at the same time, in another State, not only is that nearest number given, but an additional member given also? Is it an answer with which the people of Missouri ought to be satisfied, when it is said that this obvious injustice is the necessary result of the process adopted by the bill? May they not say with propriety, that, since three is the nearest whole number to their exact right, to that number they are entitled, and the process which deprives them of it must be a wrong process? A similar comparison might be made between New York and Vermont. The exact proportion to which Vermont is entitled, in a representation of 240, is 5.646. Her nearest whole number, therefore, would be six. Now two things are undeniably true; first, that to take away the fortieth member from New York would bring her representation nearer to her exact proportion than it stands by leaving her that fortieth member; second, that giving the member thus taken from New York to Vermont would bring her representation nearer to her exact

right than it is by the bill. And both these propositions are equally true of a transfer to Delaware of the twenty-eighth member assigned by the bill to Pennsylvania, and to Missouri of the thirteenth member assigned to Kentucky. In other words, Vermont has, by her numbers, more right to six members than New York has to forty; Delaware, by her numbers, has more right to two members than Pennsylvania has to twenty-eight; and Missouri, by her numbers, has more right to three members than Kentucky has to thirteen. Without disturbing the proposed number of the House, the mere changing of these three members from and to the six States, respectively, would bring the representation of the whole six nearer to their due proportion, according to their respective numbers, than the bill in its present form makes it. In the face of this indisputable truth, how can it be said that the bill apportions members of Congress among those States according to their respective numbers, *as near as may be?*

The principle on which the proposed amendment is founded is an effectual corrective for these and all other equally great inequalities. It may be applied at all times, and in all cases, and its result will always be the nearest approach to perfect justice. It is equally simple and impartial. As a rule of apportionment, it is little other than a transcript of the words of the Constitution, and its results are mathematically certain. The Constitution, as the committee understand it, says, Representatives shall be apportioned among the States according to their respective numbers of people, as near as may be. The rule adopted by the committee says, out of the whole number of the House, that number shall be apportioned to each State which comes nearest to its exact right according to its number of people.

Where is the repugnancy between the Constitution and the rule? The arguments against the rule seem to assume, that there is a necessity of instituting some process, adopting some number as the ratio, or as that number of people which each member shall be understood to represent. But the committee see no occasion for any other process whatever, than simply the ascertainment of that *quantum*, out of the whole mass of the representative power, which each State may claim.

But it is said that, although a State may receive a number of Representatives which is something less than its exact pro-

portion of representation, yet that it can in no case constitutionally receive more. How is this proposition proved? How is it shown that the Constitution is less perfectly fulfilled by allowing a State a small excess, than by subjecting her to a large deficiency? What the Constitution requires is the nearest practicable approach to precise justice. The rule is approximation; and we ought to approach, therefore, on whichever side we can approach nearest.

But there is a still more conclusive answer to be given to this suggestion. The whole number of Representatives of which the House is to be composed is, of necessity, limited. This number, whatever it is, is that which is to be apportioned, and nothing else can be apportioned. This is the whole sum to be distributed. If, therefore, in making the apportionment, some States receive less than their just share, it must necessarily follow that some other States have received more than their just share. If there be one State in the Union with less than its right, some other State has more than its right; so that the argument, whatever be its force, applies to the bill in its present form, as strongly as it can ever apply to any bill.

But the objection most usually urged against the principle of the proposed amendment is, that it provides for the representation of fractions. Let this objection be examined and considered. Let it be ascertained, in the first place, what these fractions, or fractional numbers, or residuary numbers, really are, which it is said will be represented, should the amendment prevail.

A fraction is the broken part of some integral number. It is, therefore, a relative or derivative idea. It implies the previous existence of some fixed number, of which it is but a part or remainder. If there be no necessity for fixing or establishing such previous number, then the fraction resulting from it is itself not matter of necessity, but matter of choice or accident. Now, the argument which considers the plan proposed in the amendment as a representation of fractions, and therefore unconstitutional, assumes as its basis, that, according to the Constitution, every member of the House of Representatives represents, or ought to represent, the same, or nearly the same, number of constituents; that this number is to be regarded as an integer; and any thing less than this is therefore called a fraction, or a residu-

um, and cannot be entitled to a Representative. But nothing of this is prescribed by the Constitution of the United States. That Constitution contemplates no integer, or any common number for the constituents of a member of the House of Representatives. It goes not at all into these subdivisions of the population of a State. It provides for the apportionment of Representatives *among the several States*, according to their respective numbers, and stops there. It makes no provision for the representation of districts of States, or for the representation of any portion of the people of a State less than the whole. It says nothing of ratios or of constituent numbers. All these things it leaves to State legislation. The right which each State possesses to its own due portion of the representative power is a State right, strictly. It belongs to the State, as a State; and it is to be used and exercised as the State may see fit, subject only to the constitutional qualifications of electors. In fact, the States do make, and always have made, different provisions for the exercise of this power. In some, a single member is chosen for a certain defined district; in others, two or three members are chosen for the same district; and in some, again, as New Hampshire, Rhode Island, Connecticut, New Jersey, and Georgia, the entire representation of the State is a joint and undivided representation. In each of these last-mentioned States, every member of the House of Representatives has for his constituents all the people of the State; and all the people of those States are consequently represented in that branch of Congress.

If the bill before the Senate should pass into a law, in its present form, whatever injustice it might do to any of those States, it would not be correct to say of them, nevertheless, that any portion of their people was unrepresented. The well-founded objection would be, as to some of them at least, that they were not adequately, competently, fairly represented; that they had not as many voices and as many votes in the House of Representatives as they were entitled to. This would be the objection. There would be no unrepresented fraction; but the State, as a State, as a whole, would be deprived of some part of its just rights.

On the other hand, if the bill should pass as it is now proposed to be amended, there would be no representation of frac-

tions in any State; for a fraction supposes a division and a remainder. All that could justly be said would be, that some of these States, as States, possessed a portion of legislative power a little larger than their exact right; as it must be admitted, that, should the bill pass unamended, they would possess of that power much less than their exact right. The same remarks are substantially true, if applied to those States which adopt the district system, as most of them do. In Missouri, for example, there will be no fraction unrepresented, should the bill become a law in its present form; nor any member for a fraction, should the amendment prevail. Because the mode of apportionment which is nearest to its exact right applies no assumed ratios, makes no subdivisions, and, of course, produces no fractions. In the one case, or in the other, the State, as a State, will have something more, or something less, than its exact proportion of representative power; but she will part out this power among her own people, in either case, in such mode as she may choose, or exercise it altogether as an entire representation of the people of the State.

Whether the subdivision of the representative power within any State, if there be a subdivision, be equal or unequal, or fairly or unfairly made, Congress cannot know, and has no authority to inquire. It is enough that the State presents her own representation on the floor of Congress in the mode she chooses to present it. If a State were to give to one portion of her territory a Representative for every twenty-five thousand persons, and to the rest a Representative only for every fifty thousand, it would be an act of unjust legislation, doubtless; but it would be wholly beyond redress by any power in Congress, because the Constitution has left all this to the State itself.

These considerations, it is thought, may show that the Constitution has not, by any implication or necessary construction, enjoined that which it certainly has not ordained in terms, namely, that every member of the House should be supposed to represent the same number of constituents; and therefore, that the assumption of a ratio, as representing the common number of constituents, is not called for by the Constitution. All that Congress is at liberty to do, as it would seem, is to divide the whole representative power of the Union into twenty-four parts, assigning one part to each State, as near as practicable accord-

ing to its right, and leaving all subsequent arrangement, and all subdivisions, to the State itself.

If the view thus taken of the rights of the States and the duties of Congress be the correct view, then the plan proposed in the amendment is in no just sense a representation of fractions. But suppose it was otherwise; suppose a direct provision were made for allowing a Representative to every State in whose population, it being first divided by a common ratio, there should be found a fraction exceeding half the amount of that ratio, what constitutional objection could be fairly urged against such a provision? Let it always be remembered, that the case here supposed provides only for a fraction exceeding the moiety of the ratio; for the committee admit at once that the representation of fractions less than a moiety is unconstitutional; because, should a member be allowed to a State for such a fraction, it would be certain that her representation would not be so near her exact right as it was before. But the allowance of a member for a major fraction is a direct approximation towards justice and equality. There appears to the committee to be nothing, either in the letter or the spirit of the Constitution, opposed to such a mode of apportionment. On the contrary, it seems entirely consistent with the very object which the Constitution contemplated, and well calculated to accomplish it. The argument commonly urged against it is, that it is necessary to apply some one common divisor, and to abide by its results.

If by this it be meant that there must be some common rule, or common measure, applicable, and applied impartially, to all the States, it is quite true. But if that which is intended be, that the population of each State must be divided by a fixed ratio, and all resulting fractions, great or small, disregarded, this is but to take for granted the very thing in controversy. The question is, whether it be unconstitutional to make approximation to equality by allowing Representatives for major fractions. The affirmative of this question is, indeed, denied, but it is not disproved, by saying that we must abide by the operation of division by an assumed ratio, and disregard fractions. The question still remains as it was before, and it is still to be shown what there is in the Constitution which rejects approximation as the rule of apportionment.

But suppose it to be necessary to find a divisor, and to abide

its results. What is a divisor? Not necessarily a simple number. It may be composed of a whole number and a fraction; it may itself be the result of a previous process; it may be any thing, in short, which produces accurate and uniform division. Whatever does this is a common rule, a common standard, or, if the word be important, a common divisor. The committee refer, on this part of the case, to some observations by Professor Dean, with a table, both of which accompany this report.

As it is not improbable that opinion has been a good deal influenced on this subject by what took place on the passing of the first act making an apportionment of Representatives among the States, the committee have examined and considered that precedent. If it be in point to the present case, it is certainly entitled to very great weight; but if it be of questionable application, the text of the Constitution, even if it were doubtful, cannot be explained by a doubtful commentary. In the opinion of the committee, it is only necessary that what was said on this occasion should be understood in connection with the subject-matter then under consideration; and in order to see what that subject-matter really was, the committee think it necessary shortly to state the case.

The two houses of Congress passed a bill, after the first enumeration of the people, providing for a House of Representatives which should consist of 120 members. The bill expressed no rule or principle by which these members were assigned to the several States. It merely said that New Hampshire should have five members, Massachusetts ten, and so on; going through all the States, and assigning the whole number of one hundred and twenty. Now, by the census then recently taken, it appeared that the whole representative population of the United States was 3,615,920; and it was evidently the wish of Congress to make the House as numerous as the Constitution would allow. But the Constitution provides that there shall not be more than one member for every thirty thousand persons.

This prohibition was, of course, to be obeyed; but did the Constitution mean that no State should have more than one member for every thirty thousand persons? Or did it only mean that the whole House, as compared with the whole population of the United States, should not contain more than one

member for every thirty thousand persons? If this last were the true construction, then the bill, in that particular, was right; if the first were the true construction, then it was wrong; because so many members could not be assigned to the States, without giving to some of them more members than one for every thirty thousand. In fact, the bill did propose to do this in regard to several States.

President Washington adopted that construction of the Constitution which applied its prohibition to each State individually. He thought that no State could constitutionally receive more than one member for every thirty thousand of her population. On this, therefore, his main objection to the bill was founded. That objection he states in these words: —

"The Constitution has also provided that the number of Representatives shall not exceed one for every thirty thousand; which restriction is, by the context, and by fair and obvious construction, to be applied to the separate and respective numbers of the States; and the bill has allotted to eight of the States more than one for every thirty thousand."

It is now necessary to see what there was further objectionable in this bill. The number of one hundred and twelve members was all that could be divided among the States, without giving to some of them more than one member for thirty thousand inhabitants. Therefore, having allotted these one hundred and twelve, there still remained eight of the one hundred and twenty to be assigned; and these eight the bill assigned to the States having the largest fractions. Some of these fractions were large, and some were small. No regard was paid to fractions over a moiety of the ratio, any more than to fractions under it. There was no rule laid down, stating what fractions should entitle the States to whom they might happen to fall, or in whose population they might happen to be found, to a Representative therefor. The assignment was not made on the principle that each State should have a member for a fraction greater than half the ratio; or that all the States should have a member for a fraction, in all cases where the allowance of such member would bring her representation nearer to its exact proportion than its disallowance. There was no common measure or common rule adopted, but the assignment was matter of arbitrary discretion. A member was allowed to New Hampshire, for ex-

ample, for a fraction of less than one half the ratio; thus placing her representation farther from her exact proportion than it was without such additional member; while a member was refused to Georgia, whose case closely resembled that of New Hampshire, both having what were thought large fractions, but both still under a moiety of the ratio, and distinguished from each other only by a very slight difference of absolute numbers. The committee have already fully expressed their opinion on such a mode of apportionment.

In regard to this character of the bill, President Washington said: "The Constitution has prescribed that Representatives shall be apportioned among the several States according to their respective numbers; and there is no one proportion or divisor, which, applied to the respective numbers of the States, will yield the number and allotment of Representatives proposed by the bill."

This was all undoubtedly true, and was, in the judgment of the committee, a decisive objection against the bill. It is, nevertheless, to be observed, that the other objection completely covered the whole ground. *There could, in that bill, be no allowance for a fraction, great or small;* because Congress had taken for the ratio the lowest number allowed by the Constitution, viz. thirty thousand. Whatever fraction a State might have less than that ratio, no member could be allowed for it. It is scarcely necessary to observe, that no such objection applies to the amendment now proposed. No State, should the amendment prevail, will have a greater number of members than one for every thirty thousand; nor is it likely that the objection will ever again occur. The whole force of the precedent, whatever it be, in its application to the present case, is drawn from the other objection. And what is the true import of that objection? Does it mean any thing more than that the apportionment was not made on a common rule or principle, applicable and applied alike to all the States?

President Washington's words are: "There is no one proportion or divisor, which, applied to the respective numbers of the States, will yield the number and allotment of Representatives proposed by the bill."

If, then, he could have found a common proportion, it would have removed this objection. He required a proportion or

divisor. These words he evidently uses as explanatory of each other. He meant by *divisor*, therefore, no more than by *proportion*. What he sought was some common and equal rule, by which the allotment had been made among the several States; he did not find such common rule; and, on that ground, he thought the bill objectionable.

In the opinion of the committee, no such objection applies to the amendment recommended by them. That amendment gives a rule, plain, simple, just, uniform, and of universal application. The rule has been frequently stated. It may be clearly expressed in either of two ways. Let the rule be, that *the whole number of the proposed House shall be apportioned among the several States according to their respective numbers, giving to each State that number of members which comes nearest to her exact mathematical part or proportion;* or let the rule be, that *the population of each State shall be divided by a common divisor, and, in addition to the number of members resulting from such division, a member shall be allowed to each State whose fraction exceeds a moiety of the divisor.*

Either of these is, it seems to the committee, a fair and just rule, capable of uniform application, and operating with entire impartiality. There is no want of a common proportion, or a common divisor; there is nothing left to arbitrary discretion. If the rule, in either of these forms, be adopted, it can never be doubtful how every member of any proposed number for a House of Representatives ought to be assigned. Nothing will be left in the discretion of Congress; the right of each State will be a mathematical right, easily ascertained, about which there can be neither doubt nor difficulty; and, in the application of the rule, there will be no room for preference, partiality, or injustice. In any case, in all time to come, it will do all that human means can do to allot to every State in the Union its proper and just proportion of representative power. And it is because of this, its capability of constant application, as well as because of its impartiality and justice, that the committee are earnest in recommending its adoption by Congress. If it shall be adopted, they believe it will remove a cause of uneasiness and dissatisfaction, recurring, or liable to recur, with every new census, and place the rights of the States, in this respect, on a fixed basis, of which none can with reason complain. It is true, that there

may be some numbers assumed for the composition of the House of Representatives, to which, if the rule were applied, the result might give a member to the House more than was proposed. But it will be always easy to correct this by altering the proposed number by adding one to it, or taking one from it; so that this can be considered no objection to the rule.

The committee, in conclusion, cannot admit that it is sufficient reason for rejecting this mode of apportionment, that a different process has heretofore prevailed. The truth is, the errors and inequalities of that process were at first not obvious and startling. But they have gone on increasing; they are greatly augmented and accumulated at every new census; and it is of the very nature of the process itself, that its unjust results must grow greater and greater in proportion as the population of the country enlarges. What was objectionable, though tolerable, yesterday, becomes intolerable to-morrow. A change, the committee are persuaded, must come, or the whole just balance and proportion of representative power among the States will be disturbed and broken up.

APPENDIX.

(See p. 384.)

Extract of a Letter from Professor James Dean.

"I cannot express my rule so densely and perspicuously as I could wish; but its meaning is, that each State shall have such a number of Representatives, that the population for each shall be the nearest possible, whether over or under, to [ ]. The number for each State may be ascertained thus: Divide the representative number by the number assumed to fill the blank, disregarding the remainder; the quotient, or the next greater number, will be the number of Representatives. In order to determine which is the proper one, divide the representative number of the State by the two numbers separately, then subtract the least quotient from the assumed number, and the assumed number from the other quotient; and that from which results the least remainder is the number of Representatives for the State."

The foregoing rule is illustrated thus: The population of Maine, for instance, which is 399,435, being divided by 47,700, the ratio assumed in the bill from the House of Representatives, gives a quotient of 8; the population being then divided by 8, the quotient is 49,929; divide by 9, the next higher number, the quotient is 44,381.

The following table exhibits the results in the several States, according to this process.

States.	Federal Population of the United States.	Number of Representatives.	Numbers nearest to 47,700.	Number of Representatives.	Numbers next nearest to 47,700.	Representatives by the bill from the H. R.
Maine,	399,435	8	49,929	9	44,381	8
New Hampshire,	269,326	6	44,887	5	53,805	5
Massachusetts,	610,407	13	46,954	12	50,867	12
Rhode Island,	97,194	2	48,599	3	32,333	2
Connecticut,	297,665	6	49,610	7	42,523	6
Vermont,	280,657	6	48,776	5	56,132	5
New York,	1,918,553	40	47,964	41	46,794	40
New Jersey,	319,922	7	45,970	6	33,320	6
Pennsylvania,	1,348,072	28	46,145	29	46,485	28
Delaware,	75,432	2	37,716	1	75,432	1
Maryland,	405,843	9	45,049	8	50,435	8
Virginia,	1,023,503	21	48,738	22	45,613	21
North Carolina,	639,747	13	49,211	14	45,669	13
South Carolina,	455,025	10	45,502	9	50,558	9
Georgia,	429,811	9	47,746	10	42,981	9
Kentucky,	621,832	13	47,833	14	44,416	13
Tennessee,	625,263	13	48,097	14	44,061	13
Ohio,	935,882	20	46,794	19	49,251	19
Indiana,	343,030	7	49,004	8	42,878	7
Mississippi,	110,358	2	55,129	3	36,766	2
Illinois,	157,147	3	52,362	4	39,283	3
Louisiana,	171,904	4	42,927	3	57,301	3
Missouri,	130,419	3	43,473	2	65,209	2
Alabama,	262,508	6	43,751	5	52,501	5
Totals,	11,928,054	251	....	253	....	240

NOTE. — The principle laid down by Professor Dean appears to be this: Each State should have that share of representation which bears the nearest possible proportion to the ratio assumed.

Thus Massachusetts, with 610,000 people, if the ratio be 47,700, should have 13 Representatives, because 13 bears the nearest possible proportion to 47,700.

As 13 is to 1, so is 610,000 to 46,923.

As 12 is to 1, so is 610,000 to 50,833.

The first result, or 46,923, is nearer to 47,700, the assumed ratio, than the last result, or 50,833. The number 13, therefore, is more

nearly apportioned to the assumed ratio than 12; and further trial of numbers will prove it to bear the nearest possible proportion to 47,700

Mr. Dean considers that, the ratio being assumed, the number of the House, and of each State's share of representation, should be apportioned to the ratio. The error of the bill is thus shown; its ratio bears no proportion, either to the whole number of the House, or to the respective quotas of representation of the several States. Its ratio is arbitrary, and its proposed number of this House is arbitrary; that is, the number is not to be found by any process. The necessary consequence is, that no State's share of the House is found by any rule of proportion.

The number of the House being fixed, the ratio should be found by proportion. As 241, e. g.: 1 : : 11,928,054 : 49,494.

Thus, for a House of 241, the true ratio is found to be 49,494; then, by the rule of Professor Dean, each State is entitled to that number of Representatives which, when divided into its whole federative population, produces a quotient or ratio approximating nearest to the true ratio, 49,494; in other words, each State is entitled to that number of Representatives which bears the nearest possible proportion to the true ratio.

BANK OF THE UNITED STATES.*

Mr. President, though I am entirely satisfied with the general view taken by the chairman of the committee,† and with his explanation of the details of the bill, yet there are a few topics upon which I desire to offer some remarks; and if no other gentleman wishes at present to address the Senate, I will avail myself of this opportunity.

A considerable portion of the active part of life has elapsed, since you and I, Mr. President,‡ and three or four other gentlemen, now in the Senate, acted our respective parts in the passage of the bill creating the present Bank of the United States. We have lived to little purpose, as public men, if the experience of this period has not enlightened our judgments, and enabled us to revise our opinions, and to correct any errors into which we may have fallen, if such errors there were, either in regard to the general utility of a national bank, or the details of its constitution. I trust it will not be unbecoming the occasion, if I allude to your own important agency in that transaction. The bill incorporating the bank, and giving it a constitution, proceeded from a committee in the House of Representatives, of which you were chairman, and was conducted through that House under your distinguished lead. Having recently looked back to the proceedings of that day, I must be permitted to say, that I have perused the speech by which the subject was introduced to the consideration of the House, with a revival of the feeling of approbation and pleasure with which I heard it; and I will add, that it would not, perhaps, now be easy to find a better brief

* A Speech delivered in the Senate on the 25th of May, 1832, on the Bill for renewing the Charter of the Bank of the United States.

† Mr. Dallas.

‡ Mr. Calhoun, at that time Vice-President of the United States.

synopsis than that speech contains, of those principles of currency and of banking, which, since they spring from the nature of money and of commerce, must be essentially the same at all times, in all commercial communities. The other gentlemen now with us in the Senate, all of them, I believe, concurred with the chairman of the committee, and voted for the bill. My own vote was against it. This is a matter of little importance; but it is connected with other circumstances, to which I will for a moment advert. The gentlemen with whom I acted on that occasion had no doubts of the constitutional power of Congress to establish a national bank; nor had we any doubts of the general utility of an institution of that kind. We had, indeed, most of us, voted for a bank, at a preceding session. But the object of our regard was not whatever might be called *a bank*. We required that it should be established on certain principles, which alone we deemed safe and useful, made subject to certain fixed liabilities, and so guarded, that it could neither move voluntarily, nor be moved by others, out of its proper sphere of action. The bill, when first introduced, contained features to which we should never have assented, and we accordingly set ourselves to work, with a good deal of zeal, in order to effect sundry amendments. In some of these proposed amendments, the chairman, and those who acted with him, finally concurred. Others they opposed. The result was, that several most important amendments, as I thought, prevailed. But there still remained, in my opinion, objections to the bill, which justified a persevering opposition, till they should be removed.

The first objection was to the magnitude of the capital. In its original form, the bill provided for a capital of thirty-five millions, with a power in Congress to increase it to fifty millions. This latter provision was struck out on the motion of a very intelligent gentleman from New York,* and I believe, Sir, with your assent. But I was of opinion that a capital of thirty-five millions was more than was called for by the circumstances of the country. The capital of the first bank was but ten millions; and it had not been shown to be too small; and there certainly was no good ground to say, that the business or the wants of the country had grown, in the mean time, in the proportion of

* Mr. Cady.

thirty-five to ten. But the state of things has now become changed. A greatly increased population, and a greatly extended commercial activity, especially in the West and Southwest, evidently require an enlarged capacity in the national bank. The capital, therefore, is less disproportionate to the occasion than it was sixteen years ago; and whatever of disproportion may be thought still to exist will be constantly decreasing. The augmentation of banking capital in State institutions is by no means a reason for reducing the capital of this bank. At first view, there might appear to be some reason in such a suggestion; but I think further reflection on the duties expected to be performed by the bank, in relation to the general currency of the country, will show that suggestion not to be well founded. On the whole, I am disposed to continue the capital as it is.

There was another objection. The bill had divided the stock into shares of one hundred dollars each, not of four hundred dollars each, as in the first bank; and it had established such a scale of voting by the stockholders, as showed it to be quite practicable for a minority in interest to control all elections, and to seize on the entire direction of the bank. It was on this very ground, and under the apprehension of this very evil, that the last attempt to amend the bill, made by me, proceeded. That attempt was a motion to diminish the number of shares, by raising the amount of each from one hundred dollars to four hundred.

There was yet one other provision of the bill, which was regarded as unnecessary and objectionable. That was, the power reserved to the government of appointing five of the directors. We had no experience of our own of the effect of such government interference in the direction of the bank; and in other countries it had been found that such connection between government and banking institutions produced nothing but evil. The credit of banks has generally been very much in proportion to their independence of government control. While acting on true commercial principles, they are useful both to government and people; but the history of the principal moneyed institutions of Europe has demonstrated, that their efficiency and stability consist very much in their freedom from all subjection to State interests and State necessities. The real safety to the

public lies in the restraints and liabilities imposed by law, and in the interest which the proprietors themselves have in a judicious management of the affairs of the corporation. I will only say, on this part of the subject, that it is unquestionably true, that the successful career of this institution commenced, when its stock, leaving the hands of speculation, came to be owned, for the common purposes of investment, by such as were in possession of capital to invest, and when the proprietors exercised their proper discretion in constituting their part of the direction with a single view of giving to the bank a safe and competent administration.

The question now is, Sir, whether this institution shall be continued. We ought to treat it as a great public subject; to consider it, like statesmen, as it regards the great interests of the country, and with as little mixture as possible of all minor motives.

The influence of the bank, Mr. President, on the interests of the government, and the interests of the people, may be considered in several points of view. It may be regarded as it affects the currency of the country; as it affects the collection and disbursement of the public revenue; as it respects foreign exchanges; as it respects domestic exchanges; and as it affects, either generally or locally, the agriculture, commerce, and manufactures of the Union.

First, as to the currency of the country. This is, at all times, a most important political object. A sound currency is an essential and indispensable security for the fruits of industry and honest enterprise. Every man of property or industry, every man who desires to preserve what he honestly possesses, or to obtain what he can honestly earn, has a direct interest in maintaining a safe circulating medium; such a medium as shall be a real and substantial representative of property, not liable to vibrate with opinions, not subject to be blown up or blown down by the breath of speculation, but made stable and secure by its immediate relation to that which the whole world regards as of a permanent value. A disordered currency is one of the greatest of political evils. It undermines the virtues necessary for the support of the social system, and encourages propensities destructive of its happiness. It wars against industry, frugality, and economy; and it fosters the evil spirits of extravagance and

speculation. Of all the contrivances for cheating the laboring classes of mankind, none has been more effectual than that which deludes them with paper money. This is the most effectual of inventions to fertilize the rich man's field by the sweat of the poor man's brow. Ordinary tyranny, oppression, excessive taxation, these bear lightly on the happiness of the mass of the community, compared with a fraudulent currency, and the robberies committed by depreciated paper. Our own history has recorded for our instruction enough, and more than enough, of the demoralizing tendency, the injustice, and the intolerable oppression on the virtuous and well disposed, of a degraded paper currency, authorized by law, or in any way countenanced by government.

We all know, Sir, that the establishment of a sound and uniform currency was one of the great ends contemplated in the adoption of the present Constitution. If we could now fully explore all the motives of those who framed and those who supported that Constitution, perhaps we should hardly find a more powerful one than this. The object, indeed, is sufficiently prominent on the face of the Constitution itself. It cannot well be questioned, that it was intended by that Constitution to submit the whole subject of the currency of the country, all that regards the actual medium of payment and exchange, whatever that should be, to the control and legislation of Congress. Congress can alone coin money; Congress can alone fix the value of foreign coins. No State can coin money; no State can fix the value of foreign coins; no State (nor even Congress itself) can make any thing a tender but gold and silver, in the payment of debts; no State can emit bills of credit. The exclusive power of regulating the metallic currency of the country would seem necessarily to imply, or, more properly, to include, as part of itself, a power to decide how far that currency should be exclusive, how far any substitute should interfere with it, and what that substitute should be. The generality and extent of the power granted to Congress, and the clear and well-defined prohibitions on the States, leave little doubt of an intent to rescue the whole subject of currency from the hands of local legislation, and to confer it on the general government. But, notwithstanding this apparent purpose in the Constitution, the truth is, that the currency of the country is now, to a very great

extent, practically and effectually under the control of the several State governments; if it be not more correct to say, that it is under the control of the banking institutions created by the States; for the States seem first to have taken possession of the power, and then to have delegated it.

Whether the States can constitutionally exercise this power, or delegate it to others, is a question which I do not intend, at present, either to concede or to argue. It is much to be hoped, that no controversy on the point may ever become necessary. But it is matter highly deserving of consideration, that, although clothed by the Constitution with exclusive power over the metallic currency, Congress, unless through the agency of a bank established by its authority, has no control whatever over that which, in the character of a mere representative of the metallic currency, fills up almost all the channels of pecuniary circulation.

In the absence of a Bank of the United States, the State banks become effectually the regulators of the public currency. Their numbers, their capital, and the interests connected with them, give them, in that state of things, a power which nothing is competent to control. We saw, therefore, when the late war broke out, and when there was no national bank in being, that the State institutions, of their own authority, and by an understanding among themselves, under the gentle phrase of suspending specie payments, everywhere south of New England refused payment of their notes, and thus filled the country with irredeemable and degraded paper. They were not called to answer for this violation of their charters, as far as I remember, in any one State. They pleaded the urgency of the occasion, and the public distresses; and in this apology the State governments acquiesced. Congress, at the same time, found itself in an awkward predicament. It held the whole power over coins. No State or State institution could give circulation to an ounce of gold or of silver, not sanctioned by Congress. Yet all the States, and a hundred State institutions, claimed and exercised the right of driving coin out of circulation by the introduction of their own paper; and then of depreciating and degrading that paper, by refusing to redeem it. As they were not institutions created by this government, they were not answerable to it. Congress could not call them to account, and if it could, Congress had no bank of its own, whose circulation could supply the

wants of the community. Coin, the substantial constituent, was, and was admitted to be, subject only to the control of Congress; but paper, assuming to be a representative of this constituent, was taking great liberties with it, at the same time that it was no way amenable to its constitutional guardian. This suspension of specie payments was of course immediately followed by great depreciation of the paper. It shortly fell so low, that a bill on Boston could not be purchased at Washington under an advance of from twenty to twenty-five per cent. I do not mean to reflect on the proceedings of the State banks. Perhaps their best justification is to be found in the readiness with which government itself borrowed their paper of them, depreciated as it was; but it certainly becomes us to consider attentively this part of our experience, and to guard, as far as we can, against similar occurrences.

I am of opinion, Sir, that a well-conducted national bank has an exceedingly useful and effective operation on the general paper circulation of the country. I think its tendency is manifestly to restrain within some bounds the paper issues of other institutions. If it be said, on the other hand, that these institutions, in turn, hold in check the issues of the national bank, so much the better. Let that check go to its full extent. An overissue, even by the bank itself, no one can desire. But it is plain, that, by holding State institutions which come into immediate contact with itself and its branches to an accountability for their issues, not yearly or quarterly, but daily and hourly, an important restraint is exercised. Be it remembered always, that what it is to expect from others, it is to perform itself; and that its own paper is at all times to turn into coin at the first touch of its own counter.

But, Mr. President, so important is this object, that I think, that, far from diminishing, we ought rather to increase and multiply our securities; and I am not prepared to say that, even with the continuance of the bank charter, and under its wisest administration, I regard the state of our currency as entirely safe. It is evident to me that the general paper circulation has been extended too far for the specie basis on which it rests. Our system, as a system, dispenses too far, in my judgment, with the use of gold and silver. Having learned the use of paper as a substitute for specie, we use the substitute, I fear, too

freely It is true, that our circulating paper is all redeemable in gold and silver. Legally speaking, it is all convertible into specie at the will of the holder. But a mere legal convertibility is not sufficient. There must be an actual, practical, never-ceasing convertibility. This, I think, is not at present sufficiently secured; and, as it is a matter of high interest, it well deserves the serious consideration of the Senate. The paper circulation of the country is at this time probably seventy-five or eighty millions of dollars. Of specie, we may have twenty or twenty-two millions; and this principally in masses, in the vaults of the banks. Now, Sir, this is a state of things which, in my judgment, leads constantly to over-trading, and to the consequent excesses and revulsions which so often disturb the regular course of commercial affairs. A circulation consisting in so great a degree of paper is easily expanded, to furnish temporary capital to such as wish to adventure on new enterprises in trade; and the collection in the banks of the greater part of the specie in the country affords all possible facility for its exportation. Hence, over-trading does frequently occur, and is always followed by an inconvenient, sometimes by a dangerous, reduction in the amount of coin. It is in vain that we look to the prudence of the banks for an effectual security against over-trading. The directors of such institutions will generally go to the length of their means in cashing good notes, and leave the borrower to judge for himself of the useful employment of his money.

Nor would a competent security against over-trading be always obtained, if the banks were to confine their discounts strictly to business paper, so denominated; that is, to notes and bills which represent real transactions, having been given and received on the actual purchase and sale of merchandise; because these transactions themselves may be too far extended. In other words, more may be bought than the wants of the community require, on a speculative calculation of future prices. Men naturally have a good opinion of their own sagacity. He who believes merchandise is about to rise in price, will buy merchandise, if he possesses money, or can obtain credit. The fact of actual purchase, therefore, is not proof of a really subsisting want; and of course the amount of all purchases does not correspond always with the entire wants or necessities of the community. Too frequently it very much exceeds that measure.

If, then, the discretion of the banks, exercised in deciding the amount of their discounts, is not a proper security against overtrading, if facility in obtaining bank credits naturally fosters that spirit, if the desire of gain and love of enterprise constantly cherish it, and if it finds specie collected in the banks inciting exportation, what is the remedy suited and adequate to the case?

Now I think, Sir, that a closer inquiry into the direct source of the evil will suggest the remedy. Why have we so small an amount of specie in circulation? Certainly the only reason is, because we do not require more. We have but to ask its presence, and it would return. But we voluntarily banish it by the great amount of small bank-notes. In most of the States, the banks issue notes of all low denominations, down even to a single dollar. How is it possible, under such circumstances, to retain specie in circulation? All experience shows it to be impossible. The paper will take the place of the gold and silver. When Mr. Pitt, in the year 1797, proposed in Parliament to authorize the Bank of England to issue one-pound notes, Mr. Burke lay sick at Bath of an illness from which he never recovered; and he is said to have written to the late Mr. Canning, "Tell Mr. Pitt, that, if he consents to the issuing of one-pound notes, he must never expect to see a guinea again." The one-pound notes were issued, and the guineas disappeared. A similar cause is producing now a precisely similar effect with us. Small notes have expelled dollars and half-dollars from circulation in all the States in which such notes are issued. On the other hand, dollars and half-dollars abound in those States which have adopted a wiser and safer policy. Virginia, Pennsylvania, Maryland, Louisiana, and some other States, I think seven in all, do not allow their banks to issue notes under five dollars. Every traveller notices the difference, when he passes from one of these States into those where small notes are allowed.

The evil, then, is the issuing of small notes by State banks. Of these notes, that is to say, of notes under five dollars, the amount now in circulation is doubtless eight or ten millions of dollars. Can these notes be withdrawn? If they can, their place will be immediately supplied by a specie circulation of equal amount. The object is a great one, as it is connected with the safety and stability of the currency, and may

well justify a serious reflection on the means of accomplishing it. May not Congress and the State governments, acting, not unitedly, but severally, to the same end, easily and quietly attain it? I think they may. It is but for other States to follow the good example of those which I have mentioned, and the work is done. As an inducement to the States to do this, I propose, in the present bill, to reserve to Congress a power of withdrawing from circulation a pretty large part of the issues of the Bank of the United States. I propose this, so that the State banks may withdraw their small notes, and find their compensation in a larger circulation of those of a higher denomination. My proposition will be, that, at any time after the expiration of the existing charter of the bank, that is, after 1836, Congress may, if it see fit, restrain the bank from issuing for circulation notes or bills under a given sum, say, ten or twenty dollars. This will diminish the circulation, and consequently the profits, of the bank; but it is of less importance to make the bank a highly profitable institution to the stockholders, than that it should be safe and useful to the community. It ought not, certainly, to be restrained from the enjoyment of all the fair advantages to be derived from the discreet use of its capital in banking transactions; but the leading object, after all, in its continuance, is, and ought to be, not private emolument, but public benefit.

It may, perhaps, strike some gentlemen, that the circulation of small notes might be effectually discouraged, by refusing to receive not only all such notes, but all notes of such banks as issue them, at the custom-houses, land-offices, post-offices, and other places of public receipt, and by causing them to be refused also, either in payment or deposit, at the Bank of the United States. But the effect of such refusal may be doubtful. It would certainly, in some degree, discredit such notes; but probably it would not drive them out of circulation altogether; and if it should not do this, it might very probably increase their circulation. If in some degree they become discredited, to that degree they will become cheaper than other notes; and universal experience proves, that, of two things which may be current, the cheaper will always expel the other. Thus, silver itself, because it is proportionably cheaper with us than gold, has driven the gold out of the country; that is to say, we

can pay a debt of one hundred dollars, by tendering that number of Spanish or American dollars. But we cannot go into the market, and buy ten American eagles for these hundred silver dollars. They would cost us a hundred and four. Thus, as we can pay our debts cheaper in silver than in gold, we use nothing but silver, and the gold goes where it is more highly valued. The same thing always happens between two sorts of paper, which are found at the same time in circulation. That which is cheapest, or of less value than the other, always drives its more respectable associate out of its company.

Measures, therefore, such as I have alluded to, would be likely, I fear, rather to aggravate than to remedy the evil. We must hope that all notes under five dollars may be entirely withdrawn from circulation, by the consent of the States and the State banks; and when that shall be done, their place will be immediately supplied by specie. We should then receive an accession of ten millions of dollars, at least, to our specie circulation: and these ten millions will find their place, not in the banks, not collected anywhere in large masses, but in constant use, among all classes, and in hourly transfer from hand to hand. It cannot be denied that such an addition would give great strength to our pecuniary system, discourage excessive exportation of specie, and tend to restrain and correct the evils of overtrading. England has applied the like remedy to a similar evil, though she has carried the restriction much higher, and allowed the circulation of no notes for less sums than five pounds sterling.

I have thought this subject, Mr. President, of so much importance, that it was fit to present it, at this time, to the consideration of the Senate. I propose to do no more at present than to insert such a provision as I have described in this bill. In the mean time, I hope the matter may attract the attention of those whose agency will be desired to accomplish the general object.

The next point on which I will offer a few remarks is the great advantage of the bank in the operations of the Treasury · first in the collection, and, next, in the disbursement of the revenue. How is the revenue to be collected through all the custom-houses, the land-offices, and the post-offices, without some such means as the bank affords? Where are payments made at

the custom-houses to be deposited? In whose hands are these large sums to be trusted? And how are they to be remitted to Washington, or wherever else they may be wanted? I dare say, Sir, that the operations of the government might be carried on in some way without the agency of a bank; but the question is, whether they could be carried on safely, without loss and without charge. Look to the disbursement of the revenue. At present, the bank is bound to transmit government funds in one place to any other place, without expense. A dollar at St. Louis or Nashville becomes a dollar in New Hampshire or Maine, if the Treasury so choose. This certainly is very useful and convenient. If there were no Bank of the United States at New Orleans, for example, duties to the government at that place must be received either in specie, or in bills of local banks. If in the former, the funds could not be remitted where they might be required, without considerable expense; if in the latter, they could not be remitted at all, until first converted into specie. If bills of exchange were resorted to, they would often command a premium, and would be always attended with more or less risk. In short, the utility of the bank in collecting and disbursing the revenue is too obvious to be argued, and too great not to strike any one, conversant with such subjects, without the aid of comment.

I have alluded to its dealings in foreign exchanges as one of the most important powers of the corporation. There are those who think this power ought to be withheld. The possession of it is, I think, one of the most common objections to the bank in the large cities; but I do not think it a well-founded objection. It is said that the trade in exchange ought to be left free, like other traffic. Be it so; but then why not leave it as free to the bank as to others? The bank enjoys no monopoly. If it be true, that, by the magnitude of its capital and the distribution of its several offices, it acts upon the rates of exchange, not locally, but generally, and thus occasionally restrains the profit of dealing in one place by bringing the general rates through the whole country nearer to a uniformity, the occasional profits of individuals may be lessened, but the general effect is beneficial to the public. If, at the same time that it keeps the domestic exchanges of the country at low rates, it keeps the rates of foreign exchanges nearly uniform and level, I hardly know

now it could do greater service to the commercial community. In the business of foreign exchange the bank has, and always will have, powerful rivals. It is natural that these rivals should desire that, in this particular, the bank should retire from business. But are its dealings in exchange found prejudicial, by those who deal in it themselves no further than to buy for their own remittances in the ordinary way of business? In things of this kind we may most safely guide ourselves by the light of experience. Taking it for granted that the general interest of the trading community is injured by sudden fluctuations in exchange, and benefited by keeping it as steady as the commerce of the country will allow, — in other words, by making the price of bills correspond with the real state of the exchange, instead of being raised or lowered for ends of speculation, — I have inquired of those who could inform me, whether, for ten or twelve years past, the rates of exchange have, or have not, been as steady and unvarying as may ever be expected; and the information I have received has satisfied me that the power of the bank of dealing in foreign exchange has been far from prejudicial to the commercial world. While there is a dealer with competent funds and credit always willing to sell foreign bills at moderate rates, and always ready also to buy them, the very nature of the case furnishes a considerable degree of security against those fluctuations which arise from speculation, although it leaves private dealings entirely free.

If that power should be now taken away from the bank, I think I can perceive that consequences of some magnitude would follow, in particular parts of the country. At present, the producer or the shipper of produce at New Orleans, Savannah, or Charleston, in making shipment for Europe, can, on the spot, cash his bill, drawn against such shipment, without charge for brokerage, guaranty, or commission. If the planter has sold to the shipper, the latter has his bill discounted, and pays the planter, who thus receives the price for his crop without delay, and without danger of loss. Suppose the bank were denied the power of purchasing foreign bills, what would be the necessary operation? The producer or shipper might send the cotton or the sugar to the North, and in that case the bank could cash his draft. But if he sent it abroad, his bill must be sent to his agent, in the bill market of the Northern cities, for sale·

and if he wishes to realize the amount, he will draw on his agent, and sell such draft. This evidently subjects him to a double operation, and to the expenses of commission and guaranty.

It is plain, I think, that, in the present state of things, the shipper of Southern and Western produce enjoys the benefit of both the foreign and the Northern market more perfectly than he would if this state of things were to be so changed, that he could not draw on his consignee in the foreign market as advantageously as he can now do it.

But if there be a question about the utility of the operations of the bank in foreign exchange, there can be none, I suppose, as to its influence on that which is internal or domestic. I speak now of internal exchange as exchange merely; without considering it connected, as it usually is, with advance or discount, in anticipation of the maturity of bills. In regard to mere exchange, the operations of the bank appear to have produced the most beneficial effect. I doubt whether, in any extensive country, the rates of internal exchange ever averaged so low. Before the bank went into operation, three, four, or five per cent. was not uncommon as the difference of exchange between one extremity of the country and the other. It has at times, indeed, as I am informed, been as high as six per cent. between New Orleans and Baltimore; and between other places in this country much higher. The vast amounts bought and sold by the bank, in all parts of the country, average, perhaps, less than one half of one per cent. I doubt whether this exceeds the rates between comparatively neighboring parts of Great Britain, or of the continent of Europe, although much of it consists in exchange between the extreme South and the northern and eastern parts of the Union.

With respect to the effect and operation of the bank upon the general interests of agriculture, commerce, and manufactures, there will be found a great difference as we look at different parts of the country. Everywhere, I think, they have been salutary; but they have been important in very different degrees in different quarters. The influence of the bank on the general currency of the country, and its operations in exchanges, are benefits of a general nature. These are felt all over the country. But in loans and discounts, in

the distribution and actual application of its capital, different portions of the country have partaken, and are partaking, in very different degrees. The West is a new and fast-growing country, with vast extents of rich land, inviting settlement and cultivation. Enterprise and labor are pressing to this scene of useful exertion, and necessarily create an urgent demand for capital. This demand the bank meets to a very considerable degree. The reports of the bank show the existing extent of its accommodation to this part of the country. In the whole Southern and Western States, that is to say, south and west of Philadelphia, the amount exceeds forty-three millions of dollars. In the States lying on the Mississippi and its waters, it exceeds thirty millions of dollars. Of these thirty millions, nineteen or twenty are discounts of notes, and the residue of acceptances of bills drawn on other parts of the country. This last amount is not strictly a loan; it is an advance in anticipation of a debt; but other advances are needed, quite as fast as this is paid off, as every successive crop creates a new occasion, and a new desire to sell bills. I leave it to Western gentlemen to judge how far this state of things goes to show that the continuance of the bank is important to the agriculture and commerce of the West. I leave it to them to contemplate the consequences of withdrawing this amount of capital from their country. I pray them also to inquire what is to be their circulating medium, when the notes of the bank are called in? Do they see before them neither difficulty nor danger in this part of the case? Are they quite confident, that, in the absence of the bills and notes of the Bank of the United States, they need have no fears of a bad currency, depreciated paper, and the long train of ills that follow, according to all human experience, those inauspicious leaders? I ask them, also, to judge how far it is wise to settle this question now, so as to give time for making this vast change, if it is to be made at all. The present charter is to continue but four years. If it be not renewed, this debt must be called in within that period. Not a new note can be taken to the bank for a dollar of it, after that time. The whole circulation of bank-notes, too, must be withdrawn. Is it not plain, then, that it is high time to know how this important matter is to be adjusted? The country could not stand a sudden recall of all this capital, and an abrupt withdrawal of this

circulation. How, indeed, the West could stand the change, even if it were begun now, and conducted as gradually and as gently as possible, I confess, I can hardly see. The very commencement of the process of recall, however slight, would be felt in the prices of the very first crop, partly from the immediate effect of withdrawing even a small portion of the capital, and partly from the certainty of future pressure from withdrawing the rest.

Indeed, gentlemen must prepare themselves, I think, for some effect on prices of lands and commodities by the postponement of this question, should it take place, as well as for embarrassments in other respects. That postponement will, at best, not diminish the uncertainty which hangs over the fate of the measure. Seeing the hostility which exists to renewing the charter, and the extent of that hostility, if the measure cannot now be carried, not only a prudent regard to its own interests, but the highest duty to the country, ought to lead the bank to prepare for the termination of its career. It has not before it one day too many to enable it to wind up such vast concerns, without distressing the public. If it were certain that the charter was to be renewed, a postponement would be of little importance. But this is uncertain, and a postponement would render it more uncertain. A motion to postpone, should such be made, will be mainly supported by those who, either on constitutional grounds, or some other grounds, are and always will be against the renewal of the charter. A postponement under such circumstances, and such auspices, cannot but create far stronger doubts than now exist of the final renewal of the charter. It is now two years and a half since the President invited the attention of Congress to this subject. That invitation has been more than once repeated. Everywhere the subject has been considered; everywhere it has been discussed. The public interest now requires our decision upon it, and the public voice demands that decision. I trust, Sir, we shall make it, and make it wisely.

Mr. President, the motives which prescribe my own line of conduct, on this occasion, are not drawn from any local considerations. The State in whose representation I bear a part has as little interest peculiar to itself, in the continuance of this corporation, as any State in the Union. She does not need the aid

of its capital, because the state of her commerce and manufactures does not call for the employment of more capital than she possesses. She does not need it, in a peculiar degree, certainly, as any restraint or corrective on her own paper currency. Her banks are as well conducted as those of other States. But she has a common interest in the continuance of a useful institution. She has an interest in the wise and successful administration of the government, in all its departments. She is interested that the general currency of the country should be maintained in a safe and healthy state. She derives a benefit with others (I believe it a great benefit) from the facility of exchanges in internal commerce, which the bank affords. This is the sum of her motives. For these reasons, she is willing that the bank should be continued. But if the matter should be otherwise determined, however much she might regret it on general and public grounds, she certainly does not apprehend from that result such inconveniences to her own citizens as may and must fall, so far as I can see, on some others.

Mr. President, I will take leave of the subject for the present, with a remark which I think is due from me. For some years past, I have not been inattentive to the general operations of the bank, or to their influence on the public interests and the convenient administration of the government; and I take the occasion to say, with sincerity and cheerfulness, that, during that period, its affairs have been conducted, in my opinion, with fidelity, as well towards the government as towards its own stockholders; and that it has sought the accomplishment of the public purposes designed by its institution with distinguished ability and distinguished success.

FURTHER REMARKS ON THE BANK OF THE UNITED STATES, MADE IN THE SENATE ON THE 28TH OF MAY, 1832.

THE question being on the amendment offered by Mr. Moore of Alabama, proposing, —

"First, That the bank shall not establish or continue any office of discount or deposit, or branch bank, in any State, without the consent and approbation of the State;

"Second, That all such offices and branches shall be subject to taxation, according to the amount of their loans and issues, in like manner as other banks or other property shall be liable to taxation";—

Mr. Webster spoke as follows: —

I trust, Sir, the Senate will not act on these propositions without fully understanding their bearing and extent. For myself, I look upon the two parts of the amendment as substantially of the same character. Each, in my opinion, confers a power in the States to expel the bank at their pleasure; in other words, entirely to defeat the operations, and destroy the capacity for usefulness, of the whole bank. The simple question is, Shall we, by our own act, in the charter itself, give to the States this permission to expel the bank and all its branches from their limits, at their own pleasure? The first part of the amendment gives this permission in express terms; and the latter part gives it in effect, by authorizing the States to tax the loans and issues of the bank, with no effectual limitation. It appears to me idle to say, that this power may be safely given, because it will not be exercised. It is to be given, I presume, on the supposition that probably some of the States will choose to exercise it; else why is it given at all? And will they not so choose? We have already heard, in the course of this debate, of two cases in which States attempted to exercise a power of this kind, when they did not constitutionally possess it. Two States have taxed the branches, for the avowed purpose of driving them out of their limits, and were prevented from accomplishing this object merely by force of judicial decisions against their right. If, then, these attempts have been made to exercise this power when it was not legally possessed, and against the will of Congress, is there any doubt that it will be exercised when its exercise shall be permitted and invited by the proposed amendment? No doubt, in my mind, the power, if granted, will be exercised, and the main object of continuing the bank will be thus defeated.

I have already said, that the second branch of the amendment is as objectionable and as destructive as the first. I think it so It appears to me to give ample power, by means of taxation, to expel the bank from any State which may choose to expel it. It gives a power of taxation without fixed limits, or any reasonable guards. And a power of taxation without fixed limits,

and without guards, is a power to embarrass, a power to oppress, a power to expel, a power to destroy. The States are to be allowed to tax the branches according to the amount of their loans and discounts, in like manner as other banks, or other property in the State, shall be liable to taxation.

Now, Sir, some of the States have no banks. Of course they tax no banks. In other States, the banks pay the State a *bonus* on their creation, and are not otherwise taxed. In other cases, the State, in effect, itself owns the bank, and a tax on it, therefore, would be merely nominal. Besides, no State is to be bound to lay this tax as it taxes its own banks. It has an option to tax it in that manner, or as other property is taxed. What other property? It may be as lottery-tickets, gaming-tables, or other things which may be deemed fit to be discouraged or suppressed, are taxed. The bank may be classed with other nuisances, and driven out or put down by taxation. All this is perfectly within the scope of the amendment. The license is broad enough to authorize any thing which may be designed or wished.

Now, Sir, I doubt exceedingly our power to adopt this amendment, and I pray the deliberate consideration of the Senate in regard to this point. In the first place, let me ask, What is the constitutional ground on which Congress created this corporation, and on which we now propose to continue it? There is no express authority to create a bank, or any other corporation, given to us by the Constitution. The power is derived by implication. It has been exercised, and can be exercised, only on the ground of a just necessity. It is to be maintained, if at all, on the allegation, that the establishment of a national bank is a just and necessary means for carrying on the government, and executing the powers conferred on Congress by the Constitution. On this ground, Congress has established this bank, and on this it is now proposed to be continued. And it has already been judicially decided, that, Congress having established a bank for these purposes, the Constitution of the United States prohibits the States from taxing it. Observe, Sir, it is the *Constitution*, not the *law*, which lays this prohibition on the States. The charter of the bank does not declare that the States shall not tax it. It says not one word on that subject. The restraint is imposed, not by Congress, but by a higher authority, the Con-

stitution. Now, Sir, I ask how *we* can relieve the States from this constitutional prohibition. It is true, that this prohibition is not imposed in express terms; but it results from the general provisions of the Constitution, and has been judicially decided to exist in full force. This is a protection, then, which the Constitution of the United States, by its own force, holds over this institution, which Congress has deemed necessary to be created in order to carry on the government, so soon as Congress, exercising its own judgment, has chosen to create it. Can we throw off from this government this constitutional protection? I think it clear we cannot. We cannot repeal the Constitution. We cannot say that every power, every branch, every institution, and every law of this government shall not have all the force, all the sanction, and all the protection, which the Constitution gives it.

By the Constitution, every law of Congress is finally to be considered, and its construction ultimately settled, by the Supreme Court of the United States. These very acts before referred to, taxing the banks, were held valid by some of the judicatures of the States, but were finally pronounced unconstitutional by the Supreme Court of the United States; and this, not by force of any words in the charter, but by force of the Constitution itself. I ask whether it is competent for us to reverse this provision of the Constitution, and to say that the laws of Congress shall receive their ultimate construction from the State courts. Again, the Constitution gives Congress a right to lay duties of impost, and it prohibits the exercise of any such power by the States. Now it so happens, that the national treasury is much better supplied than the treasuries of the States. It might be thought very convenient that a part of the receipts at the custom-houses should be received by the States. But will any man say that Congress could now authorize the States to lay and collect imposts under any restrictions or limitations whatever? No one will pretend it. That would be to make a new partition of power between this government and the State governments. Mr. Madison has very correctly observed, that the assent of the States cannot confer a new power on Congress, except in those cases especially provided in the Constitution. This is very true, and it is equally true that the States cannot obtain a new power by the consent of Congress, against the

prohibition of the Constitution, except in those cases which are expressly so provided for in the Constitution itself.

These reasons, Sir, lead me to think that, if, for purposes connected with the beneficial administration of the government, we deem it necessary to continue this corporation, we are not at liberty to repeal any protection, or any immunity, with which the Constitution surrounds it. We cannot give to a law of the United States less than its constitutional effect. The Constitution says, that every such law, passed in pursuance of the Constitution, shall be paramount to any State law. We cannot enact that it shall not be so; for that would be so far to repeal the Constitution.

Allow me now, Mr. President, to inquire on what ground it is that the States claim this power of taxation. They do not claim it as a power to tax all property of their own citizens. This they possess, without denial or doubt. Every stockholder in the bank is liable to be taxed for his property therein, by the State of which he is a citizen. This right is exercised, I believe, by all the States which lay taxes on money at interest, income, and other subjects of that kind. It is, then, not that they may be authorized to tax the property of their own citizens. Nor is it because any State does not participate in the advantage of the premium, or bonus, paid by the bank to government for the charter. That sum goes into the treasury for the general good of all.

Nor can the claim be sustained, nor, indeed, is it asserted, on the strength of the mere circumstance that a branch, or an office, is established in a State. Such office or branch is but an agency. It is no body politic or corporate. It has no legal existence of itself. It is but an agent of the general corporation. That these agents have their residence or place of business in a particular State, is not of itself the foundation of any claim. But, according to the language of the amendment, the ground of this claim to tax is evidently the loans and issues; and these loans and issues, properly speaking, are the loans and discounts of the bank. The office, as an agent, conducts the arrangements, it is true; but the notes which are issued are notes of the bank, and the debts created are debts due to the bank. The circulation is the circulation of the bank. Now the truth is, what the States claim, or what this amendment proposes to give them, is a right to tax the circulation of

the bank. It is on this right that, the argument rests. The common way of stating it is, that, since State banks pay a tax to the State, these branch banks among them ought to pay a similar tax. But the State banks pay the tax to the State for the privilege of circulation; and the proposition is, therefore, neither more nor less than that the United States Bank shall pay the States for the same privilege. The circulation of the bills is the substance. The locality of the office is but an incident. An office is created, for example, on Connecticut River, either in Massachusetts, Vermont, Connecticut, or New Hampshire. The notes of the bank are loaned at this office, and put into circulation in all these States. Now, no one will say that the State where the office happens to be placed should have a right to lay this tax, and the other States have no such right. This would be a merely arbitrary distinction. It would be founded on no real or substantial difference; and no man, as it seems to me, could seriously contend for it. Under this very amendment, Pennsylvania would be authorized to collect a large tax, and New Jersey no tax at all, although the State circulation of New Jersey is as much infringed and diminished as that of Pennsylvania by the circulation of the Bank of the United States. The States which have the benefit of branches (if it be a benefit) are to have the further advantage of taxation; while other States are to have neither the one nor the other. Founding the claim on the State right to derive benefit from the paper circulation which exists within it, the advocates of the claim are clearly not consistent with themselves, when they maintain a measure which professes to protect that right in some States, and to leave it unprotected in others.

But the inequality of the operation of this amendment is not the only, nor the main, objection to it. It proceeds on a principle not to be admitted. It asserts, or it takes for granted, that the power of authorizing and regulating the paper currency of the country is an exclusive State right. The ground assumed can be no less broad than this; because, the Bank of the United States having the grant of a power from Congress to issue notes for circulation, its right is perfect, if Congress could make such a grant. It owes nothing to the States, if Congress could give what it has undertaken to give; that is to say, if Congress, of its own authority, may confer a right to issue paper for circula-

tion. Now, Sir, whosoever denies this right in Congress denies, of course, its power to create such a bank as now exists; at least, so it strikes me. The Bank of the United States is quite unconstitutional, if the whole paper circulation belongs to the States; because the Bank of the United States is a bank of circulation, and was so intended to be by Congress, which expressly authorized the circulation of notes and bills. The power of issuing notes for circulation is not an indispensable ingredient in the constitution of a bank, merely as a bank. The earlier banks did not possess it, and many good ones have existed without it. A bank with no such power might yet very well collect the public revenue, provided there was a proper medium in which it could be paid; could tolerably well remit the revenue to the treasury; and could deal usefully, to some extent, in the business of exchange.

On what ground is it, then, that Congress possesses the power, not only to create a bank, but a bank of circulation? Simply, as I suppose, because Congress possesses a constitutional control over the currency of the country, and has power to provide a safe medium of circulation, as well for other purposes as for the collection of its own debts and revenue. The bank, therefore, already possesses unconstitutional power, if the paper circulation be the subject, exclusively, of State right or State regulation. Indeed, Sir, it is not a little startling that such exclusive right should now be asserted. I observed, the other day, that, in my opinion, it was very difficult to maintain, on the face of the Constitution itself, and independent of long-continued practice, the doctrine that the States could authorize the circulation of bank paper at all. They cannot coin money; can they, then, coin that which becomes the actual and almost the universal substitute for money? Is not the right of issuing paper, intended for circulation, in the place and as the representative of metallic currency, derived merely from the power of coining and regulating that metallic currency? As bringing this matter to a just test, let me ask whether Congress, if it had not the power of coining money, and of regulating the value of foreign coins, could create a bank, with the power to circulate bills. For one, I think it would be difficult to make that out. Where, then, do the States, to whom all control over the metallic currency is altogether prohibited, get this power? It is true that, in other

countries, private bankers, having no legal authority over the coin, issue notes for circulation. But this they do always with the consent of government, express or implied; and government restrains and regulates all their operations at its pleasure. It would be a startling proposition, in any other part of the world, that the prerogative of coining money, held by government, was liable to be defeated, counteracted, or impeded, by another prerogative, held in other hands, of authorizing a paper circulation.

It is further to be observed, that the States cannot issue bills of credit; not that they cannot make them a legal tender, but that they cannot issue them at all. Is not this a clear indication of the intent of the Constitution to restrain the States, as well from establishing a paper circulation, as from interfering with the metallic circulation? Banks have been created by States with no capital whatever; their notes being put into circulation simply on the credit of the State, or the State law. What are the issues of such banks but bills of credit, issued by the State?

I confess, Mr. President, that the more I reflect on this subject, the more clearly does my mind approach the conclusion, that the creation of State banks, for the purpose and with the power of circulating paper, is not consistent with the grants and prohibitions of the Constitution. But, Sir, this is not now the question. The question is, not whether the States have the power; it is, whether they *alone* have the power. May they rightfully *exclude* the United States from all interference with the paper currency? Are we interlopers, when we create a bank of circulation? Do we owe them a seigniorage for the circulation of bills, by a corporation created by Congress? Up to the present time, the States have been content with a concurrent power. They have, indeed, controlled vastly the larger portion of the circulation; but they have not claimed exclusive authority over the whole. They have demanded no tax or tribute from a bank issuing paper under the authority of Congress. Nor do I know that any State or States now insist upon it. It may be, that individual States have put forth such claims, in their legislative capacity; but at present I recollect no instance. The amendment, however, which is now proposed, asserts the claim, and I cannot consent to yield to it. We seem to be making the last struggle for the authority of Congress to inter-

fere at all with the actual currency of the country. I shall never agree to surrender that authority; I would as soon yield the coinage power itself; nor do I think there would be much greater danger, nor a much clearer departure from constitutional principle, in a consenting to such surrender, than in acquiescing in what is now proposed.

THE PRESIDENTIAL VETO OF THE UNITED STATES BANK BILL.*

Mr. President, no one will deny the high importance of the subject now before us. Congress, after full deliberation and discussion, has passed a bill, by decisive majorities, in both houses, for extending the duration of the Bank of the United States. It has not adopted this measure until its attention had been called to the subject, in three successive annual messages of the President. The bill having been thus passed by both houses, and having been duly presented to the President, instead of signing and approving it, he has returned it with objections. These objections go against the whole substance of the law originally creating the bank. They deny, in effect, that the bank is constitutional; they deny that it is expedient; they deny that it is necessary for the public service.

It is not to be doubted, that the Constitution gives the President the power which he has now exercised; but while the power is admitted, the grounds upon which it has been exerted become fit subjects of examination. The Constitution makes it the duty of Congress, in cases like this, to reconsider the measure which they have passed, to weigh the force of the President's objections to that measure, and to take a new vote upon the question.

Before the Senate proceeds to this second vote, I propose to make some remarks upon those objections. And, in the first place, it is to be observed, that they are such as to extinguish all hope that the present bank, or any bank at all resembling it, or resembling any known similar institution, can ever receive his

* A Speech delivered in the Senate of the United States, on the 11th of July, 1832, on the President's Veto of the Bank Bill.

approbation. He states no terms, no qualifications, no conditions, no modifications, which can reconcile him to the essential provisions of the existing charter. He is against the bank, and against any bank constituted in a manner known either to this or any other country. One advantage, therefore, is certainly obtained by presenting him the bill. It has caused the President's sentiments to be made known. There is no longer any mystery, no longer a contest between hope and fear, or between those prophets who predicted a *veto* and those who foretold an approval. The bill is negatived; the President has assumed the responsibility of putting an end to the bank; and the country must prepare itself to meet that change in its concerns which the expiration of the charter will produce. Mr. President, I will not conceal my opinion that the affairs of the country are approaching an important and dangerous crisis. At the very moment of almost unparalleled general prosperity, there appears an unaccountable disposition to destroy the most useful and most approved institutions of the government. Indeed, it seems to be in the midst of all this national happiness that some are found openly to question the advantages of the Constitution itself; and many more ready to embarrass the exercise of its just power, weaken its authority, and undermine its foundations. How far these notions may be carried, it is impossible yet to say. We have before us the practical result of one of them. The bank has fallen, or is to fall.

It is now certain, that, without a change in our public counsels, this bank will not be continued, nor will any other be established, which, according to the general sense and language of mankind, can be entitled to the name. Within three years and nine months from the present moment, the charter of the bank expires; within that period, therefore, it must wind up its concerns. It must call in its debts, withdraw its bills from circulation, and cease from all its ordinary operations. All this is to be done in three years and nine months; because, although there is a provision in the charter rendering it lawful to use the corporate name for two years after the expiration of the charter, yet this is allowed only for the purpose of suits and for the sale of the estate belonging to the bank, and for no other purpose whatever. The whole active business of the bank, its custody of public deposits, its transfer of public moneys, its dealing in

exchange, all its loans and discounts, and all its issues of bills for circulation, must cease and determine on or before the third day of March, 1836; and within the same period its debts must be collected, as no new contract can be made with it, as a corporation, for the renewal of loans, or discount of notes or bills, after that time.

The President is of opinion, that this time is long enough to close the concerns of the institution without inconvenience. His language is, "The time allowed the bank to close its concerns is ample, and if it has been well managed, its pressure will be light, and heavy only in case its management has been bad. If, therefore, it shall produce distress, the fault will be its own." Sir, this is all no more than general statement, without fact or argument to support it. We know what the management of the bank has been, and we know the present state of its affairs. We can judge, therefore, whether it be probable that its capital can be all called in, and the circulation of its bills withdrawn, in three years and nine months, by any discretion or prudence in management, without producing distress. The bank has discounted liberally, in compliance with the wants of the community. The amount due to it on loans and discounts, in certain large divisions of the country, is great; so great, that I do not perceive how any man can believe that it can be paid, within the time now limited, without distress. Let us look at known facts. Thirty millions of the capital of the bank are now out, on loans and discounts, in the States on the Mississippi and its waters; ten millions of which are loaned on the discount of bills of exchange, foreign and domestic, and twenty millions on promissory notes. Now, Sir, how is it possible that this vast amount can be collected in so short a period without suffering, by any management whatever? We are to remember, that, when the collection of this debt begins, at that same time, the existing medium of payment, that is, the circulation of the bills of the bank, will begin also to be restrained and withdrawn; and thus the means of payment must be limited just when the necessity of making payment becomes pressing. The whole debt is to be paid, and within the same time the whole circulation withdrawn.

The local banks, where there are such, will be able to afford little assistance; because they themselves will feel a full share

of the pressure. They will not be in a condition to extend their discounts, but, in all probability, obliged to curtail them. Whence, then, are the means to come for paying this debt? and in what medium is payment to be made? If all this may be done with but slight pressure on the community, what course of conduct is to accomplish it? How is it to be done? What other thirty millions are to supply the place of these thirty millions now to be called in? What other circulation or medium of payment is to be adopted in the place of the bills of the bank? The message, following a singular train of argument, which had been used in this house, has a loud lamentation upon the suffering of the Western States on account of their being obliged to pay even interest on this debt. This payment of interest is itself represented as exhausting their means and ruinous to their prosperity. But if the interest cannot be paid without pressure, can both interest and principal be paid in four years without pressure? The truth is, the interest has been paid, is paid, and may continue to be paid, without any pressure at all; because the money borrowed is profitably employed by those who borrow it, and the rate of interest which they pay is at least two per cent. lower than the actual value of money in that part of the country. But to pay the whole principal in less than four years, losing, at the same time, the existing and accustomed means and facilities of payment created by the bank itself, and to do this without extreme embarrassment, without absolute distress, is, in my judgment, impossible. I hesitate not to say, that, as this *veto* travels to the West, it will depreciate the value of every man's property from the Atlantic States to the capital of Missouri. Its effects will be felt in the price of lands, the great and leading article of Western property, in the price of crops, in the products of labor, in the repression of enterprise, and in embarrassment to every kind of business and occupation. I state this opinion strongly, because I have no doubt of its truth, and am willing its correctness should be judged by the event. Without personal acquaintance with the Western States, I know enough of their condition to be satisfied that what I have predicted must happen. The people of the West are rich, but their riches consist in their immense quantities of excellent land, in the products of these lands, and in their spirit of enterprise. The actual value of money, or rate of interest,

with them is high, because their pecuniary capital bears little proportion to their landed interest. At an average rate, money is not worth less than eight per cent. per annum throughout the whole Western country, notwithstanding that it has now a loan or an advance from the bank of thirty millions, at six per cent. To call in this loan, at the rate of eight millions a year, in addition to the interest on the whole, and to take away, at the same time, that circulation which constitutes so great a portion of the medium of payment throughout that whole region, is an operation, which, however wisely conducted, cannot but inflict a blow on the community of tremendous force and frightful consequences. The thing cannot be done without distress, bankruptcy, and ruin, to many. If the President had seen any practical manner in which this change might be effected without producing these consequences, he would have rendered infinite service to the community by pointing it out. But he has pointed out nothing, he has suggested nothing; he contents himself with saying, without giving any reason, that, if the pressure be heavy, the fault will be the bank's. I hope this is not merely an attempt to forestall opinion, and to throw on the bank the responsibility of those evils which threaten the country, for the sake of removing it from himself.

The responsibility justly lies with him, and there it ought to remain. A great majority of the people are satisfied with the bank as it is, and desirous that it should be continued. They wished no change. The strength of this public sentiment has carried the bill through Congress, against all the influence of the administration, and all the power of organized party. But the President has undertaken, on his own responsibility, to arrest the measure, by refusing his assent to the bill. He is answerable for the consequences, therefore, which necessarily follow the change which the expiration of the bank charter may produce; and if these consequences shall prove disastrous, they can fairly be ascribed to his policy only, and the policy of his administration.

Although, Sir, I have spoken of the effects of this *veto* in the Western country, it has not been because I considered that part of the United States exclusively affected by it. Some of the Atlantic States may feel its consequences, perhaps, as sensibly as those of the West, though not for the same reasons. The

concern manifested by Pennsylvania for the renewal of the charter shows her sense of the importance of the bank to her own interest, and that of the nation. That great and enterprising State has entered into an extensive system of internal improvements, which necessarily makes heavy demands on her credit and her resources; and by the sound and acceptable currency which the bank affords, by the stability which it gives to private credit, and by occasional advances, made in anticipation of her revenues, and in aid of her great objects, she has found herself benefitted, doubtless, in no inconsiderable degree. Her legislature has instructed her Senators here to advocate the renewal of the charter, at this session. They have obeyed her voice, and yet they have the misfortune to find that, in the judgment of the President, *the measure is unconstitutional, unnecessary, dangerous to liberty, and is, moreover, ill-timed.*

But, Mr. President, it is not the local interest of the West, nor the particular interest of Pennsylvania, or any other State, which has influenced Congress in passing this bill. It has been governed by a wise foresight, and by a desire to avoid embarrassment in the pecuniary concerns of the country, to secure the safe collection and convenient transmission of public moneys, to maintain the circulation of the country, sound and safe as it now happily is, against the possible effects of a wild spirit of speculation. Finding the bank highly useful, Congress has thought fit to provide for its continuance.

As to the *time* of passing this bill, it would seem to be the last thing to be thought of, as a ground of objection, by the President; since, from the date of his first message to the present time, he has never failed to call our attention to the subject with all possible apparent earnestness. So early as December, 1829, in his message to the two houses, he declares, that he "cannot, in justice to the parties interested, too soon present the subject to the deliberate consideration of the legislature, in order to avoid the evils resulting from precipitancy, in a measure involving such important principles and such deep pecuniary interests." Aware of this early invitation given to Congress to take up the subject, by the President himself, the writer of the message seems to vary the ground of objection, and, instead of complaining that the time of bringing forward this measure was premature, to insist, rather, that, after the report of the commit-

tee of the other house, the bank should have withdrawn its application for the present! But that report offers no just ground, surely, for such withdrawal. The subject was before Congress; it was for Congress to decide upon it, with all the light shed by the report; and the question of postponement, having been made in both houses, was lost, by clear majorities, in each. Under such circumstances, it would have been somewhat singular, to say the least, if the bank itself had withdrawn its application. It is indeed known to every body, that neither the report of the committee, nor any thing contained in that report, was relied on by the opposers of the renewal. If it has been discovered elsewhere, that that report contained matter important in itself, or which should have led to further inquiry, this may be proof of superior sagacity; for certainly no such thing was discerned by either House of Congress.

But, Sir, do we not now see that it was time, and high time, to press this bill, and to send it to the President? Does not the event teach us, that the measure was not brought forward one moment too early? The time had come when the people wished to know the decision of the administration on the question of the bank. Why conceal it, or postpone its declaration? Why, as in regard to the tariff, give out one set of opinions for the North, and another for the South.

An important election is at hand, and the renewal of the bank charter is a pending object of great interest, and some excitement. Should not the opinions of men high in office, and candidates for reëlection, be known, on this, as on other important public questions? Certainly, it is to be hoped that the people of the United States are not yet mere man-worshippers, that they do not choose their rulers without some regard to their political principles, or political opinions. Were they to do this, it would be to subject themselves voluntarily to the evils which the hereditary transmission of power, independent of all personal qualifications, inflicts on other nations. They will judge their public servants by their acts, and continue or withhold their confidence, as they shall think it merited, or as they shall think it forfeited In every point of view, therefore, the moment had arrived, when it became the duty of Congress to come to a result, in regard to this highly important measure. The interests of the government, the interests of the people, the clear and indisputable voice

of public opinion, all called upon Congress to act without further loss of time. It has acted, and its act has been negatived by the President; and this result of the proceedings here places the question, with all its connections and all its incidents, fully before the people.

Before proceeding to the constitutional question, there are some other topics, treated in the message, which ought to be noticed. It commences by an inflamed statement of what it calls the "favor" bestowed upon the original bank by the government, or, indeed, as it is phrased, the "monopoly of its favor and support"; and through the whole message all possible changes are rung on the "gratuity," the "exclusive privileges," and "monopoly," of the bank charter. Now, Sir, the truth is, that the powers conferred on the bank are such, and no others, as are usually conferred on similar institutions. They constitute no monopoly, although some of them are of necessity, and with propriety, exclusive privileges. "The original act," says the message, "operated as a gratuity of many millions to the stockholders." What fair foundation is there for this remark? The stockholders received their charter, not gratuitously, but for a valuable consideration in money, prescribed by Congress, and actually paid. At some times the stock has been above *par*, at other times below *par*, according to prudence in management, or according to commercial occurrences. But if, by a judicious administration of its affairs, it had kept its stock always above *par*, what pretence would there be, nevertheless, for saying that such augmentation of its value was a "gratuity" from government? The message proceeds to declare, that the present act proposes another donation, another gratuity, to the same men, of at least seven millions more. It seems to me that this is an extraordinary statement, and an extraordinary style of argument, for such a subject and on such an occasion. In the first place, the facts are all assumed; they are taken for true without evidence. There are no proofs that any benefit to that amount will accrue to the stockholders, nor any experience to justify the expectation of it. It rests on random estimates, or mere conjecture. But suppose the continuance of the charter should prove beneficial to the stockholders; do they not pay for it? They give twice as much for a charter of fifteen years, as was given before for one of twenty. And if the proposed *bonus*, or premium, be not, in the

President's judgment, large enough, would he, nevertheless, on such a mere matter of opinion as that, negative the whole bill? May not Congress be trusted to decide even on such a subject as the amount of the money premium to be received by government for a charter of this kind?

But, Sir, there is a larger and a much more just view of this subject. The bill was not passed for the purpose of benefiting the present stockholders. Their benefit, if any, is incidental and collateral. Nor was it passed on any idea that they had a *right* to a renewed charter, although the message argues against such right, as if it had been somewhere set up and asserted. No such right has been asserted by any body. Congress passed the bill, not as a bounty or a favor to the present stockholders, nor to comply with any demand of right on their part; but to promote great public interests, for great public objects. Every bank must have some stockholders, unless it be such a bank as the President has recommended, and in regard to which he seems not likely to find much concurrence of other men's opinions; and if the stockholders, whoever they may be, conduct the affairs of the bank prudently, the expectation is always, of course, that they will make it profitable to themselves, as well as useful to the public. If a bank charter is not to be granted, because, to some extent, it may be profitable to the stockholders, no charter can be granted. The objection lies against all banks.

Sir, the object aimed at by such institutions is to connect the public safety and convenience with private interests. It has been found by experience, that banks are safest under private management, and that government banks are among the most dangerous of all inventions. Now, Sir, the whole drift of the message is to reverse the settled judgment of all the civilized world, and to set up government banks, independent of private interest or private control. For this purpose the message labors, even beyond the measure of all its other labors, to create jealousies and prejudices, on the ground of the alleged benefit which individuals will derive from the renewal of this charter. Much less effort is made to show that government, or the public, will be injured by the bill, than that individuals will profit by it. Following up the impulses of the same spirit, the message goes on gravely to allege, that the act, as passed by Congress, proposes to make a *present* of some millions of dollars to foreigners

because a portion of the stock is held by foreigners. Sir, how would this sort of argument apply to other cases? The President has shown himself not only willing, but anxious, to pay off the three per cent. stock of the United States at *par*, notwithstanding that it is notorious that foreigners are owners of the greater part of it. Why should he not call that a donation to foreigners of many millions?

I will not dwell particularly on this part of the message. Its tone and its arguments are all in the same strain. It speaks of the certain gain of the present stockholders, of the value of the monopoly; it says that all monopolies are granted at the expense of the public; that the many millions which this bill bestows on the stockholders come out of the earnings of the people; that, if government sells monopolies, it ought to sell them in open market; that it is an erroneous idea, that the present stockholders have a prescriptive right either to the favor or the bounty of government; that the stock is in the hands of a few, and that the whole American people are excluded from competition in the purchase of the monopoly. To all this I say, again, that much of it is assumption without proof; much of it is an argument against that which nobody has maintained or asserted; and the rest of it would be equally strong against any charter, at any time. These objections existed in their full strength, whatever that was, against the first bank. They existed, in like manner, against the present bank at its creation, and will always exist against all banks. Indeed, all the fault found with the bill now before us is, that it proposes to continue the bank substantially as it now exists. "All the objectionable principles of the existing corporation," says the message, "and most of its odious features, are retained without alleviation"; so that the message is aimed against the bank, as it has existed from the first, and against any and all others resembling it in its general features.

Allow me, now, Sir, to take notice of an argument founded on the practical operation of the bank. That argument is this. Little of the stock of the bank is held in the West, the capital being chiefly owned by citizens of the Southern and Eastern States, and by foreigners. But the Western and Southwestern States owe the bank a heavy debt, so heavy that the interest amounts to a million six hundred thousand a year. This inter-

est is carried to the Eastern States, or to Europe, annually, and its payment is a burden on the people of the West, and a drain of their currency, which no country can bear without inconvenience and distress. The true character and the whole value of this argument are manifest by the mere statement of it. The people of the West are, from their situation, necessarily large borrowers. They need money, capital, and they borrow it, because they can derive a benefit from its use, much beyond the interest which they pay. They borrow at six per cent. of the bank, although the value of money with them is at least as high as eight. Nevertheless, although they borrow at this low rate of interest, and although they use all they borrow thus profitably, yet they cannot pay the interest without "inconvenience and distress"; and then, Sir, follows the logical conclusion, that, although they cannot pay even the interest without inconvenience and distress, yet less than four years is ample time for the bank to call in the whole, both principal and interest, without causing more than a light pressure. This is the argument.

Then follows another, which may be thus stated. It is competent to the States to tax the property of their citizens vested in the stock of this bank; but the power is denied of taxing the stock of foreigners; therefore the stock will be worth ten or fifteen per cent. more to foreigners than to residents, and will of course inevitably leave the country, and make the American people debtors to aliens in nearly the whole amount due the bank, and send across the Atlantic from two to five millions of specie every year, to pay the bank dividends.

Mr. President, arguments like these might be more readily disposed of, were it not that the high and official source from which they proceed imposes the necessity of treating them with respect. In the first place, it may safely be denied that the stock of the bank is any more valuable to foreigners than to our own citizens, or an object of greater desire to them, except in so far as capital may be more abundant in the foreign country, and therefore its owners more in want of opportunity of investment. The foreign stockholder enjoys no exemption from taxation. He is, of course, taxed by his own government for his incomes, derived from this as well as other property; and this is a full answer to the whole statement. But it may be added, in the

second place, that it is not the practice of civilized states to tax the property of foreigners under such circumstances. Do we tax, or did we ever tax, the foreign holders of our public debt? Does Pennsylvania, New York, or Ohio tax the foreign holders of stock in the loans contracted by either of these States? Certainly not. Sir, I must confess I had little expected to see, on such an occasion as the present, a labored and repeated attempt to produce an impression on the public opinion unfavorable to the bank, from the circumstance that foreigners are among its stockholders. I have no hesitation in saying, that I deem such a train of remark as the message contains on this point, coming from the President of the United States, to be injurious to the credit and character of the country abroad; because it manifests a jealousy, a lurking disposition not to respect the property, of foreigners invited hither by our own laws. And, Sir, what is its tendency but to excite this jealousy, and create groundless prejudices?

From the commencement of the government, it has been thought desirable to invite, rather than to repel, the introduction of foreign capital. Our stocks have all been open to foreign subscriptions; and the State banks, in like manner, are free to foreign ownership. Whatever State has created a debt has been willing that foreigners should become purchasers, and desirous of it. How long is it, Sir, since Congress itself passed a law vesting new powers in the President of the United States over the cities in this District, for the very purpose of increasing their credit abroad, the better to enable them to borrow money to pay their subscriptions to the Chesapeake and Ohio Canal? It is easy to say that there is danger to liberty, danger to independence, in a bank open to foreign stockholders, because it is easy to say any thing. But neither reason nor experience proves any such danger. The foreign stockholder cannot be a director. He has no voice even in the choice of directors. His money is placed entirely in the management of the directors appointed by the President and Senate and by the American stockholders. So far as there is dependence or influence either way, it is to the disadvantage of the foreign stockholder. He has parted with the control over his own property, instead of exercising control over the property or over the actions of others. And, Sir, let it now be added, in further answer to this class of objec

tions, that experience has abundantly confuted them all. This government has existed forty-three years, and has maintained, in full being and operation, a bank, such as is now proposed to be renewed, for thirty-six years out of the forty-three. We have never for a moment had a bank not subject to every one of these objections. Always, foreigners might be stockholders; always, foreign stock has been exempt from State taxation, as much as at present; always, the same power and privileges; always, all that which is now called a "monopoly," a "gratuity," a "present," have been possessed by the bank. And yet there has been found no danger to liberty, no introduction of foreign influence, and no accumulation of irresponsible power in a few hands. I cannot but hope, therefore, that the people of the United States will not now yield up their judgment to those notions which would reverse all our best experience, and persuade us to discontinue a useful institution from the influence of vague and unfounded declamation against its danger to the public liberties. Our liberties, indeed, must stand upon very frail foundations, if the government cannot, without endangering them, avail itself of those common facilities, in the collection of its revenues and the management of its finances, which all other governments, in commercial countries, find useful and necessary.

In order to justify its alarm for the security of our independence, the message supposes a case. It supposes that the bank should pass principally into the hands of the subjects of a foreign country, and that we should be involved in war with that country, and then it exclaims, "What would be our condition?" Why, Sir, it is plain that all the advantages would be on our side. The bank would still be our institution, subject to our own laws, and all its directors elected by ourselves; and our means would be enhanced, not by the confiscation and plunder, but by the proper use, of the foreign capital in our hands. And, Sir, it is singular enough, that this very state of war, from which this argument against a bank is drawn, is the very thing which, more than all others, convinced the country and the government of the necessity of a national bank. So much was the want of such an institution felt in the late war, that the subject engaged the attention of Congress, constantly, from the declaration of that war down to the time when the existing bank was actually

established; so that in this respect, as well as in others, the argument of the message is directly opposed to the whole experience of the government, and to the general and long-settled convictions of the country.

I now proceed, Sir, to a few remarks upon the President's constitutional objections to the bank; and I cannot forbear to say, in regard to them, that he appears to me to have assumed very extraordinary grounds of reasoning. He denies that the constitutionality of the bank is a settled question. If it be not, will it ever become so, or what disputed question ever can be settled? I have already observed, that for thirty-six years out of the forty-three during which the government has been in being, a bank has existed, such as is now proposed to be continued.

As early as 1791, after great deliberation, the first bank charter was passed by Congress, and approved by President Washington. It established an institution, resembling, in all things now objected to, the present bank. That bank, like this, could take lands in payment of its debts; that charter, like the present, gave the States no power of taxation; it allowed foreigners to hold stock; it restrained Congress from creating other banks. It gave also exclusive privileges, and in all particulars it was, according to the doctrine of the message, as objectionable as that now existing. That bank continued twenty years. In 1816, the present institution was established, and has been ever since in full operation. Now, Sir, the question of the power of Congress to create such institutions has been contested in every manner known to our Constitution and laws. The forms of the government furnish no new mode in which to try this question. It has been discussed over and over again, in Congress; it has been argued and solemnly adjudged in the Supreme Court; every President, except the present, has considered it a settled question; many of the State legislatures have instructed their Senators to vote for the bank; the tribunals of the States, in every instance, have supported its constitutionality; and, beyond all doubt and dispute, the general public opinion of the country has at all times given, and does now give, its full sanction and approbation to the exercise of this power, as being a constitutional power. There has been no opinion questioning the power expressed or intimated, at any time, by either house

of Congress, by any President, or by any respectable judicial tribunal. Now, Sir, if this practice of near forty years, if these repeated exercises of the power, if this solemn adjudication of the Supreme Court, with the concurrence and approbation of public opinion, do not settle the question, how is any question ever to be settled, about which any one may choose to raise a doubt?

The argument of the message upon the Congressional precedents is either a bold and gross fallacy, or else it is an assertion without proofs, and against known facts. The message admits, that, in 1791, Congress decided in favor of a bank; but it adds, that another Congress, in 1811, decided against it. Now, if it be meant that, in 1811, Congress decided against the bank on constitutional ground, then the assertion is wholly incorrect, and against notorious fact. It is perfectly well known, that many members, in both houses, voted against the bank in 1811, who had no doubt at all of the constitutional power of Congress. They were entirely governed by other reasons given at the time. I appeal, Sir, to the honorable member from Maryland, who was then a member of the Senate, and voted against the bank, whether he, and others who were on the same side, did not give those votes on other well-known grounds, and not at all on constitutional ground?

General Smith here rose, and said, that he voted against the bank in 1811, but not at all on constitutional grounds, and had no doubt such was the case with other members.

We all know, Sir, the fact to be as the gentleman from Maryland has stated it. Every man who recollects, or who has read, the political occurrences of that day, knows it. Therefore, if the message intends to say, that in 1811 Congress denied the existence of any such constitutional power, the declaration is unwarranted, and altogether at variance with the facts. If, on the other hand, it only intends to say, that Congress decided against the proposition then before it on some other grounds, then it alleges that which is nothing at all to the purpose. The argument, then, either assumes for truth that which is not true, or else the whole statement is immaterial and futile.

But whatever value others may attach to this argument, the message thinks so highly of it, that it proceeds to repeat it.

"One Congress," it says, "in 1815, decided against a bank, another, in 1816, decided in its favor. There is nothing in precedent, therefore, which, if its authority were admitted, ought to weigh in favor of the act before me." Now, Sir, since it is known to the whole country, one cannot but wonder how it should remain unknown to the President, that Congress *did not* decide against a bank in 1815. On the contrary, that very Congress passed a bill for erecting a bank, by very large majorities. In one form, it is true, the bill failed in the House of Representatives; but the vote was reconsidered, the bill recommitted, and finally passed by a vote of one hundred and twenty to thirty-nine. There is, therefore, not only no solid ground, but not even any plausible pretence, for the assertion, that Congress in 1815 decided against the bank. That very Congress passed a bill to create a bank, and its decision, therefore, is precisely the other way, and is a direct practical precedent in favor of the constitutional power. What are we to think of a constitutional argument which deals in this way with historical facts? When the message declares, as it does declare, that there is nothing in precedent which ought to weigh in favor of the power, it sets at naught repeated acts of Congress affirming the power, and it also states other acts, which were in fact, and which are well known to have been, directly the reverse of what the message represents them. There is not, Sir, the slightest reason to think that any Senate or any House of Representatives, ever assembled under the Constitution, contained a majority that doubted the constitutional existence of the power of Congress to establish a bank. Whenever the question has arisen, and has been decided, it has always been decided one way. The legislative precedents all assert and maintain the power; and these legislative precedents have been the law of the land for almost forty years. They settle the construction of the Constitution, and sanction the exercise of the power in question, so far as these effects can ever be produced by any legislative precedents whatever.

But the President does not admit the authority of precedent. Sir, I have always found, that those who habitually deny most vehemently the general force of precedent, and assert most strongly the supremacy of private opinion, are yet, of all men, most tenacious of that very authority of precedent, whenever it

happens to be in their favor. I beg leave to ask, Sir, upon what ground, except that of precedent, and precedent alone, the President's friends have placed his power of removal from office. No such power is given by the Constitution, in terms, nor anywhere intimated, throughout the whole of it; no paragraph or clause of that instrument recognizes such a power. To say the least, it is as questionable, and has been as often questioned, as the power of Congress to create a bank; and, enlightened by what has passed under our own observation, we now see that it is of all powers the most capable of flagrant abuse. Now, Sir, I ask again, What becomes of this power, if the authority of precedent be taken away? It has all along been denied to exist; it is nowhere found in the Constitution; and its recent exercise, or, to call things by their right names, its recent abuse, has, more than any other single cause, rendered good men either cool in their affections toward the government of their country, or doubtful of its long continuance. Yet there is *precedent* in favor of this power, and the President exercises it. We know, Sir, that, without the aid of that *precedent*, his acts could never have received the sanction of this body, even at a time when his voice was somewhat more potential here than it now is, or, as I trust, ever again will be. Does the President, then, reject the authority of all precedent except what it is suitable to his own purpose to use? And does he use, without stint or measure, all precedents which may augment his own power, or gratify his own wishes?

But if the President thinks lightly of the authority of Congress in construing the Constitution, he thinks still more lightly of the authority of the Supreme Court. He asserts a right of individual judgment on constitutional questions, which is totally inconsistent with any proper administration of the government, or any regular execution of the laws. Social disorder, entire uncertainty in regard to individual rights and individual duties, the cessation of legal authority, confusion, the dissolution of free government, — all these are the inevitable consequences of the principles adopted by the message, whenever they shall be carried to their full extent. Hitherto it has been thought that the final decision of constitutional questions belonged to the supreme judicial tribunal. The very nature of free government, it has been supposed, enjoins this; and our Constitution, more-

over, has been understood so to provide, clearly and expressly. It is true, that each branch of the legislature has an undoubted right, in the exercise of its functions, to consider the constitutionality of a law proposed to be passed. This is naturally a part of its duty; and neither branch can be compelled to pass any law, or do any other act, which it deems to be beyond the reach of its constitutional power. The President has the same right, when a bill is presented for his approval, for he is, doubtless, bound to consider, in all cases, whether such bill be compatible with the Constitution, and whether he can approve it consistently with his oath of office. But when a law has been passed by Congress, and approved by the President, it is now no longer in the power, either of the same President, or his successors, to say whether the law is constitutional or not. He is not at liberty to disregard it; he is not at liberty to feel or to affect "constitutional scruples," and to sit in judgment himself on the validity of a statute of the government, and to nullify it, if he so chooses. After a law has passed through all the requisite forms; after it has received the requisite legislative sanction and the executive approval, the question of its constitutionality then becomes a judicial question, and a judicial question alone. In the courts that question ma be raised, argued, and adjudged; it can be adjudged nowhe else.

The President is as much bound by the law as any private citizen, and can no more contest its validity than any private citizen. He may refuse to obey the law, and so may a private citizen; but both do it at their own peril, and neither of them can settle the question of its validity. The President may *say* a law is unconstitutional, but he is not the judge. Who is to decide that question? The judiciary alone possesses this unquestionable and hitherto unquestioned right. The judiciary is the constitutional tribunal of appeal for the citizens, against both Congress and the executive, in regard to the constitutionality of laws. It has this jurisdiction expressly conferred upon it, and when it has decided the question, its judgment must, from the very nature of all judgments that are final, and from which there is no appeal, be conclusive. Hitherto, this opinion, and a correspondent practice, have prevailed, in America, with all wise and considerate men. If it were otherwise, there would be no

government of laws; but we should all live under the government, the rule, the caprices, of individuals. If we depart from the observance of these salutary principles, the executive power becomes at once purely despotic; for the President, if the principle and the reasoning of the message be sound, may either execute or not execute the laws of the land, according to his sovereign pleasure. He may refuse to put into execution one law, pronounced valid by all branches of the government, and yet execute another, which may have been by constitutional authority pronounced void.

On the argument of the message, the President of the United States holds, under a new pretence and a new name, a *dispensing power* over the laws as absolute as was claimed by James the Second of England, a month before he was compelled to fly the kingdom. That which is now claimed by the President is in truth nothing less, and nothing else, than the old dispensing power asserted by the kings of England in the worst of times; the very climax, indeed, of all the preposterous pretensions of the Tudor and the Stuart races. According to the doctrines put forth by the President, although Congress may have passed a law, and although the Supreme Court may have pronounced it constitutional, yet it is, nevertheless, no law at all, if he, in his good pleasure, sees fit to deny it effect; in other words, to repeal and annul it. Sir, no President and no public man ever before advanced such doctrines in the face of the nation. There never before was a moment in which any President would have been tolerated in asserting such a claim to despotic power. After Congress has passed the law, and after the Supreme Court has pronounced its judgment on the very point in controversy, the President has set up his own private judgment against its constitutional interpretation. It is to be remembered, Sir, that it is the present law, it is the act of 1816, it is the present charter of the bank, which the President pronounces to be unconstitutional. It is no bank *to be created*, it is no law proposed to be passed, which he denounces; it is the *law now existing*, passed by Congress, approved by President Madison, and sanctioned by a solemn judgment of the Supreme Court, which he now declares unconstitutional, and which, of course, so far as it may depend on him, cannot be executed. If these opinions of the President be maintained, there is an end of all law and all judicial author-

ity. Statutes are but recommendations, judgments no more than opinions. Both are equally destitute of binding force. Such a universal power as is now claimed for him, a power of judging over the laws and over the decisions of the judiciary, is nothing else but pure despotism. If conceded to him, it makes him at once what Louis the Fourteenth proclaimed himself to be when he said, "I am the State."

The Supreme Court has unanimously declared and adjudged that the existing bank *is* created by a constitutional law of Congress. As has been before observed, this bank, so far as the present question is concerned, is like that which was established in 1791 by Washington, and sanctioned by the great men of that day. In every form, therefore, in which the question can be raised, it has been raised and has been settled. Every process and every mode of trial known to the Constitution and laws have been exhausted, and always and without exception the decision has been in favor of the validity of the law. But all this practice, all this precedent, all this public approbation, all this solemn adjudication directly on the point, is to be disregarded and rejected, and the constitutional power flatly denied. And, Sir, if we are startled at this conclusion, our surprise will not be lessened when we examine the argument by which it is maintained.

By the Constitution, Congress is authorized to pass all laws "necessary and proper" for carrying its own legislative powers into effect. Congress has deemed a bank to be "necessary and proper" for these purposes, and it has therefore established a bank. But although the law has been passed, and the bank established, and the constitutional validity of its charter solemnly adjudged, yet the President pronounces it unconstitutional, because some of the powers bestowed on the bank are, in his opinion, not necessary or proper. It would appear that powers which in 1791 and in 1816, in the time of Washington and in the time of Madison, were deemed "necessary and proper," are no longer to be so regarded, and therefore the bank is unconstitutional. It has really come to this, that the constitutionality of a bank is to depend upon the opinion which one particular man may form of the utility or necessity of some of the clauses in its charter! If that individual chooses to think that a particular power contained in the charter is not necessary

to the proper constitution of the bank, then the act is unconstitutional!

Hitherto it has always been supposed that the question was of a very different nature. It has been thought that the policy of granting a particular charter may be materially dependent on the structure and organization and powers of the proposed institution. But its general constitutionality has never before been understood to turn on such points. This would be making its constitutionality depend on subordinate questions; on questions of expediency and questions of detail; upon that which one man may think necessary, and another may not. If the constitutional question were made to hinge on matters of this kind, how could it ever be decided? All would depend on conjecture; on the complexional feeling, on the prejudices, on the passions, of individuals; on more or less practical skill or correct judgment in regard to banking operations among those who should be the judges; on the impulse of momentary interests, party objects, or personal purposes. Put the question in this manner to a court of seven judges, to decide whether a particular bank was constitutional, and it might be doubtful whether they could come to any result, as they might well hold very various opinions on the practical utility of many clauses of the charter.

The question in that case would be, not whether the bank, in its general frame, character, and objects, was a proper instrument to carry into effect the powers of the government, but whether the particular powers, direct or incidental, conferred on a particular bank, were better calculated than all others to give success to its operations. For if not, then the charter, according to this sort of reasoning, would be unwarranted by the Constitution. This mode of construing the Constitution is certainly a novel discovery. Its merits belong entirely to the President and his advisers. According to this rule of interpretation, if the President should be of opinion, that the capital of the bank was larger, by a thousand dollars, than it ought to be; or that the time for the continuance of the charter was a year too long; or that it was unnecessary to require it, under penalty, to pay specie; or needless to provide for punishing, as forgery, the counterfeiting of its bills, — either of these reasons would be sufficient to render the charter, in his opinion, unconstitutional, in-

valid, and nugatory. This is a legitimate conclusion from the argument. Such a view of the subject has certainly never before been taken. This train of reasoning has hitherto not been heard within the halls of Congress, nor has any one ventured upon it before the tribunals of justice. The first exhibition, its first appearance, as an argument, is in a message of the President of the United States.

According to that mode of construing the Constitution which was adopted by Congress in 1791, and approved by Washington, and which has been sanctioned by the judgment of the Supreme Court, and affirmed by the practice of nearly forty years, the question upon the constitutionality of the bank involves two inquiries. First, whether a bank, in its general character, and with regard to the general objects with which banks are usually connected, be, in itself, a fit means, a suitable instrument, to carry into effect the powers granted to the government. If it be so, then the second, and the only other question is, whether the powers given in a particular charter are appropriate for a bank. If they are powers which are appropriate for a bank, powers which Congress may fairly consider to be useful to the bank or the country, then Congress may confer these powers; because the discretion to be exercised in framing the constitution of the bank belongs to Congress. One man may think the granted powers not indispensable to the particular bank; another may suppose them injudicious, or injurious; a third may imagine that other powers, if granted in their stead, would be more beneficial; but all these are matters of expediency, about which men may differ; and the power of deciding upon them belongs to Congress.

I again repeat, Sir, that if, for reasons of this kind, the President sees fit to negative a bill, on the ground of its being inexpedient or impolitic, he has a right to do so. But remember, Sir, that we are now on the constitutional question; remember, that the argument of the President is, that, because powers were given to the bank by the charter of 1816 which he thinks unnecessary, that charter is unconstitutional. Now, Sir, it will hardly be denied, or rather it was not denied or doubted before this message came to us, that, if there was to be a bank, the powers and duties of that bank must be prescribed in the law creating it. Nobody but Congress, it has been thought, could

grant these powers and privileges, or prescribe their limitations It is true, indeed, that the message pretty plainly intimates, that the President should have been *first* consulted, and that he should have had the framing of the bill; but we are not yet accustomed to that order of things in enacting laws, nor do I know a parallel to this claim, thus now brought forward, except that, in some peculiar cases in England, highly affecting the royal prerogative, the assent of the monarch is necessary, before either the House of Peers, or his Majesty's faithful Commons, are permitted to act upon the subject, or to entertain its consideration. But supposing, Sir, that our accustomed forms and our republican principles are still to be followed, and that a law creating a bank is, like all other laws, to originate with Congress, and that the President has nothing to do with it till it is presented for his approval, then it is clear that the powers and duties of a proposed bank, and all the terms and conditions annexed to it, must, in the first place, be settled by Congress.

This power, if constitutional at all, is only constitutional in the hands of Congress. Anywhere else, its exercise would be plain usurpation. If, then, the authority to decide what powers ought to be granted to a bank belong to Congress, and Congress shall have exercised that power, it would seem little better than absurd to say, that its act, nevertheless, would be unconstitutional and invalid, if, in the opinion of a third party, it had misjudged, on a question of expediency, in the arrangement of details. According to such a mode of reasoning, a mistake in the exercise of jurisdiction takes away the jurisdiction. If Congress decide right, its decision may stand; if it decide wrong, its decision is nugatory; and whether its decision be right or wrong another is to judge, although the original power of making the decision must be allowed to be exclusively in Congress. This is the end to which the argument of the message will conduct its followers.

Sir, in considering the authority of Congress to invest the bank with the particular powers granted to it, the inquiry is not, and cannot be, how appropriate these powers are, but whether they be at all appropriate; whether they come within the range of a just and honest discretion; whether Congress may fairly esteem them to be necessary. The question is not, Are they the fittest means, the best means? or whether the bank might

not be established without them; but the question is, Are they such as Congress, *bonâ fide*, may have regarded as appropriate to the end? If any other rule were to be adopted, nothing could ever be settled. A law would be constitutional to-day and unconstitutional to-morrow. Its constitutionality would altogether depend upon individual opinion on a matter of mere expediency. Indeed, such a case as that is now actually before us. Mr. Madison deemed the powers given to the bank, in its present charter, proper and necessary. He held the bank, therefore, to be constitutional. But the present President, not acknowledging that the power of deciding on these points rests with Congress, nor with Congress and the then President, but setting up his own opinion as the standard, declares the law now in being unconstitutional, because the powers granted by it are, in his estimation, not necessary and proper. I pray to be informed, Sir, whether, upon similar grounds of reasoning, the President's own scheme for a bank, if Congress should do so unlikely a thing as to adopt it, would not become unconstitutional also, if it should so happen that his successor should hold his bank in as light esteem as he holds those established under the auspices of Washington and Madison?

If the reasoning of the message be well founded, it is clear that the charter of the existing bank is not a law. The bank has no legal existence; it is not responsible to government; it has no authority to act; it is incapable of being an agent; the President may treat it as a nullity to-morrow, withdraw from it all the public deposits, and set afloat all the existing national arrangements of revenue and finance. It is enough to state these monstrous consequences, to show that the doctrine, principles, and pretensions of the message are entirely inconsistent with a government of laws. If that which Congress has enacted, and the Supreme Court has sanctioned, be not the law of the land, then the reign of law has ceased, and the reign of individual opinion has already begun.

The President, in his commentary on the details of the existing bank charter, undertakes to prove that one provision, and another provision, is not necessary and proper; because, as he thinks, the same objects proposed to be accomplished by them might have been better attained in another mode; and therefore

such provisions are not necessary, and so not warranted by the Constitution. Does not this show, that, according to his own mode of reasoning, his *own* scheme would not be constitutional, since another scheme, which probably most people would think a better one, might be substituted for it? Perhaps, in any bank charter, there may be no provisions which may be justly regarded as absolutely indispensable; since it is probable that for any of them some others might be substituted. No bank, therefore, ever could be established; because there never has been, and never could be, any charter, of which every provision should appear to be indispensable, or necessary and proper, in the judgment of every individual. To admit, therefore, that there may be a constitutional bank, and yet to contend for such a mode of judging of its provisions and details as the message adopts, involves an absurdity. Any charter which may be framed may be taken up, and each power conferred by it successively denied, on the ground, that, in regard to each, either no such power is "necessary or proper" in a bank, or, which is the same thing in effect, some other power might be substituted for it, and supply its place. That can never be necessary, in the sense in which the message understands that term, which may be dispensed with; and it cannot be said that any power may not be dispensed with, if there be some other which might be substituted for it, and which would accomplish the same end. Therefore, no bank could ever be constitutional, because none could be established which should not contain some provisions which might have been omitted, and their place supplied by others.

Mr. President, I have understood the true and well-established doctrine to be, that, after it has been decided that it is competent for Congress to establish a bank, then it follows, that it may create such a bank as it judges, in its discretion, to be best, and invest it with all such power as it may deem fit and suitable; with this limitation, always, that all is to be done in the *bonâ fide* execution of the power to create a bank. If the granted powers are appropriate to the professed end, so that the granting of them cannot be regarded as usurpation of authority by Congress, or an evasion of constitutional restrictions, under color of establishing a bank, then the charter is constitutional, whether these powers be thought indispensable by others or not, or whether even Congress itself deemed them absolutely indis

pensable, or only thought them fit and suitable, or whether they are more or less appropriate to their end. It is enough that they are appropriate; it is enough that they are suited to produce the effects designed; and no comparison is to be instituted, in order to try their constitutionality, between them and others which may be suggested. A case analogous to the present is found in the constitutional power of Congress over the mail. The Constitution says no more than that "Congress shall have power to establish post-offices and post-roads"; and, in the general clause, "all powers necessary and proper" to give effect to this. In the execution of this power, Congress has protected the mail, by providing that robbery of it shall be punished with death. Is this infliction of capital punishment constitutional? Certainly it is not, unless it be both "proper and necessary." The President may not think it necessary or proper; the law, then, according to the system of reasoning enforced by the message, is of no binding force, and the President may disobey it, and refuse to see it executed.

The truth is, Mr. President, that if the general object, the subject-matter, properly belong to Congress, all its incidents belong to Congress also. If Congress is to establish post-offices and post-roads, it may, for that end, adopt one set of regulations or another; and either would be constitutional. So the details of one bank are as constitutional as those of another, if they are confined fairly and honestly to the purpose of organizing the institution, and rendering it useful. One *bank* is as constitutional as another *bank*. If Congress possesses the power to make a bank, it possesses the power to make it efficient, and competent to produce the good expected from it. It may clothe it with all such power and privileges, not otherwise inconsistent with the Constitution, as may be necessary, in its own judgment, to make it what government deems it should be. It may confer on it such immunities as may induce individuals to become stockholders, and to furnish the capital; and since the extent of these immunities and privileges is matter of discretion, and matter of opinion, Congress only can decide it, because Congress alone can frame or grant the charter. A charter, thus granted to individuals, becomes a contract with them, upon their compliance with its terms. The bank becomes an agent, bound to perform certain duties, and entitled to certain stipulated rights

and privileges, in compensation for the proper discharge of these duties; and all these stipulations, so long as they are appropriate to the object professed, and not repugnant to any other constitutional injunction, are entirely within the competency of Congress. And yet, Sir, the message of the President toils through all the commonplace topics of monopoly, the right of taxation, the suffering of the poor, and the arrogance of the rich, with as much painful effort, as if one, or another, or all of them, had something to do with the constitutional question.

What is called the "monopoly" is made the subject of repeated rehearsal, in terms of special complaint. By this "monopoly," I suppose, is understood the restriction contained in the charter, that Congress shall not, during the twenty years, create another bank. Now, Sir, let me ask, Who would think of creating a bank, inviting stockholders into it, with large investments, imposing upon it heavy duties, as connected with the government, receiving some millions of dollars as a *bonus* or premium, and yet retaining the power of granting, the next day, another charter, which would destroy the whole value of the first? If this be an unconstitutional restraint on Congress, the Constitution must be strangely at variance with the dictates both of good sense and sound morals. Did not the first Bank of the United States contain a similar restriction? And have not the States granted bank charters with a condition, that, if the charter should be accepted, they would not grant others? States have certainly done so; and, in some instances, where no *bonus* or premium was paid at all; but from the mere desire to give effect to the charter, by inducing individuals to accept it and organize the institution. The President declares that this restriction is not necessary to the efficiency of the bank; but that is the very thing which Congress and his predecessor in office were called on to decide, and which they did decide, when the one passed and the other approved the act. And he has now no more authority to pronounce his judgment on that act than any other individual in society. It is not his province to decide on the constitutionality of statutes which Congress has passed, and his predecessors approved.

There is another sentiment in this part of the message, which we should hardly have expected to find in a paper which is supposed, whoever may have drawn it up, to have passed under the

review of professional characters. The message declares, that this limitation to create no other bank is unconstitutional, because, although Congress may use the discretion vested in them, "they may not limit the discretion of their successors." This reason is almost too superficial to require an answer. Every one at all accustomed to the consideration of such subjects knows that every Congress can bind its successors to the same extent that it can bind itself. The power of Congress is always the same; the authority of law always the same. It is true, we speak of the Twentieth Congress and the Twenty-first Congress; but this is only to denote the period of time, or to mark the successive organizations of the House of Representatives under the successive periodical election of its members. As a politic body, as the legislative power of the government, Congress is always continuous, always identical. A particular Congress, as we speak of it, for instance, the present Congress, can no farther restrain itself from doing what it may choose to do at the next session, than it can restrain any succeeding Congress from doing what it may choose. Any Congress may repeal the act or law of its predecessor, if in its nature it be repealable, just as it may repeal its own act; and if a law or an act be irrepealable in its nature, it can no more be repealed by a subsequent Congress than by that which passed it. All this is familiar to every body. And Congress, like every other legislature, often passes acts which, being in the nature of grants or contracts, are irrepealable ever afterwards. The message, in a strain of argument which it is difficult to treat with ordinary respect, declares that this restriction on the power of Congress, as to the establishment of other banks, is a palpable attempt to amend the Constitution by an act of legislation. The reason on which this observation purports to be founded is, that Congress, by the Constitution, is to have exclusive legislation over the District of Columbia; and when the bank charter declares that Congress will create no new bank within the District, it annuls this power of exclusive legislation! I must say, that this reasoning hardly rises high enough to entitle it to a passing notice. It would be doing it too much credit to call it plausible. No one needs to be informed that exclusive power of legislation is not unlimited power of legislation; and if it were, how can that legislative power be unlimited that cannot restrain itself, that cannot bind

itself by contract? Whether as a government or as an individual, that being is fettered and restrained which is not capable of binding itself by ordinary obligation. Every legislature binds itself, whenever it makes a grant, enters into a contract, bestows an office, or does any other act or thing which is in its nature irrepealable. And this, instead of detracting from its legislative power, is one of the modes of exercising that power. The legislative power of Congress over the District of Columbia would not be full and complete, if it might not make just such a stipulation as the bank charter contains.

As to the taxing power of the States, about which the message says so much, the proper answer to all it says is, that the States possess no power to tax any instrument of the government of the United States. It was no part of their power before the Constitution, and they derive no such power from any of its provisions. It is nowhere given to them. Could a State tax the *coin* of the United States at the mint? Could a State lay a stamp tax on the process of the courts of the United States, and on custom-house papers? Could it tax the transportation of the mail, or the ships of war, or the ordnance, or the muniments of war, of the United States? The reason that these cannot be taxed by a State is, that they are means and instruments of the government of the United States. The establishment of a bank exempt from State taxation takes away no existing right in a State. It leaves it all it ever possessed. But the complaint is, that the bank charter does not *confer* the power of taxation. This, certainly, though not a new (for the same argument was urged here), appears to me to be a strange mode of asserting and maintaining State rights. The power of taxation is a sovereign power; and the President and those who think with him are of opinion, in a given case, that this sovereign power should be conferred on the States by an act of Congress. There is, if I mistake not, Sir, as little compliment to State sovereignty in this idea, as there is of sound constitutional doctrine. Sovereign rights held under the grant of an act of Congress present a proposition quite new in constitutional law.

The President himself even admits that an instrument of the government of the United States ought not, as such, to be taxed by the States; yet he contends for such a power of taxing prop

erty connected with this instrument, and essential to its very being, as places its whole existence in the pleasure of the States. It is not enough that the States may tax all the property of all their own citizens, wherever invested or however employed. The complaint is, that the power of State taxation does not reach so far as to take cognizance over persons out of the State, and to tax them for a franchise lawfully exercised under the authority of the United States. Sir, when did the power of the States, or indeed of any government, go to such an extent as that? Clearly never. The taxing power of all communities is necessarily and justly limited to the property of its own citizens, and to the property of others, having a distinct local existence as property, within its jurisdiction; it does not extend to rights and franchises, rightly exercised, under the authority of other governments, nor to persons beyond its jurisdiction. As the Constitution has left the taxing power of the States, so the bank charter leaves it. Congress has not undertaken either to take away, or to confer, a taxing power; nor to enlarge, or to restrain it; if it were to do either, I hardly know which of the two would be the least excusable.

I beg leave to repeat, Mr. President, that what I have now been considering are the President's objections, not to the policy or expediency, but to the constitutionality of the bank; and not to the constitutionality of any new or proposed bank, but of the bank as it now is, and as it has long existed. If the President had declined to approve this bill because he thought the original charter unwisely granted, and the bank, in point of policy and expediency, objectionable or mischievous, and in that view only had suggested the reasons now urged by him, his argument, however inconclusive, would have been intelligible, and not, in its whole frame and scope, inconsistent with all well-established first principles. His rejection of the bill, in that case, would have been, no doubt, an extraordinary exercise of power; but it would have been, nevertheless, the exercise of a power belonging to his office, and trusted by the Constitution to his discretion. But when he puts forth an array of arguments such as the message employs, not against the expediency of the bank, but against its constitutional existence, he confounds all distinctions, mixes questions of policy and questions of right together, and turns all constitutional restraints into mere matters of opin-

ion. As far as its power extends, either in its direct effects or as a precedent, the message not only unsettles every thing which has been settled under the Constitution, but would show, also, that the Constitution itself is utterly incapable of any fixed construction or definite interpretation, and that there is no possibility of establishing, by its authority, any practical limitations on the powers of the respective branches of the government.

When the message denies, as it does, the authority of the Supreme Court to decide on constitutional questions, it effects, so far as the opinion of the President and his authority can effect it, a complete change in our government. It does two things, first, it converts constitutional limitations of power into mere matters of opinion, and then it strikes the judicial department, as an efficient department, out of our system. But the message by no means stops even at this point. Having denied to Congress the authority of judging what powers may be constitutionally conferred on a bank, and having erected the judgment of the President himself into a standard by which to try the constitutional character of such powers, and having denounced the authority of the Supreme Court to decide finally on constitutional questions, the message proceeds to claim for the President, not the power of approval, but the primary power, the power of originating laws. The President informs Congress, that *he* would have sent them such a charter, if it had been properly asked for, as they ought to confer. He very plainly intimates, that, in his opinion, the establishment of all laws, of this nature at least, belongs to the functions of the executive government; and that Congress ought to have waited for the manifestation of the executive will, before it presumed to touch the subject. Such, Mr. President, stripped of their disguises, are the real pretences set up in behalf of the executive power in this most extraordinary paper.

Mr. President, we have arrived at a new epoch. We are entering on experiments, with the government and the Constitution of the country, hitherto untried, and of fearful and appalling aspect. This message calls us to the contemplation of a future which little resembles the past. Its principles are at war with all that public opinion has sustained, and all which the experience of the government has sanctioned. It denies first principles; it contradicts truths, heretofore received as indisputable.

It denies to the judiciary the interpretation of law, and claims to divide with Congress the power of originating statutes. It extends the grasp of executive pretension over every power of the government. But this is not all. It presents the chief magistrate of the Union in the attitude of arguing away the powers of that government over which he has been chosen to preside; and adopting for this purpose modes of reasoning which, even under the influence of all proper feeling towards high official station, it is difficult to regard as respectable. It appeals to every prejudice which may betray men into a mistaken view of their own interests, and to every passion which may lead them to disobey the impulses of their understanding. It urges all the specious topics of State rights and national encroachment against that which a great majority of the States have affirmed to be rightful, and in which all of them have acquiesced. It sows, in an unsparing manner, the seeds of jealousy and ill-will against that government of which its author is the official head. It raises a cry, that liberty is in danger, at the very moment when it puts forth claims to powers heretofore unknown and unheard of. It affects alarm for the public freedom, when nothing endangers that freedom so much as its own unparalleled pretences. This, even, is not all. It manifestly seeks to inflame the poor against the rich; it wantonly attacks whole classes of the people, for the purpose of turning against them the prejudices and the resentments of other classes. It is a state paper which finds no topic too exciting for its use, no passion too inflammable for its address and its solicitation.

Such is this message. It remains now for the people of the United States to choose between the principles here avowed and their government. These cannot subsist together. The one or the other must be rejected. If the sentiments of the message shall receive general approbation, the Constitution will have perished even earlier than the moment which its enemies originally allowed for the termination of its existence. It will not have survived to its fiftieth year.

THE CONSTITUTION NOT A COMPACT BETWEEN SOVEREIGN STATES.*

On the 21st of January, 1833, Mr. Wilkins, chairman of the Judiciary Committee of the Senate, introduced the bill further to provide for the collection of duties. On the 22d day of the same month, Mr. Calhoun submitted the following resolutions : —

" *Resolved*, That the people of the several States composing these United States are united as parties to a constitutional compact, to which the people of each State acceded as a separate sovereign community, each binding itself by its own particular ratification ; and that the union, of which the said compact is the bond, is a union *between the States* ratifying the same.

" *Resolved*, That the people of the several States thus united by the constitutional compact, in forming that instrument, and in creating a general government to carry into effect the objects for which they were formed, delegated to that government, for that purpose, certain definite powers, to be exercised jointly, reserving, at the same time, each State to itself, the residuary mass of powers, to be exercised by its own separate government ; and that whenever the general government assumes the exercise of powers not delegated by the compact, its acts are unauthorized, and are of no effect ; and that the same government is not made the final judge of the powers delegated to it, since that would make its discretion, and not the Constitution, the measure of its powers ; but that, as in all other cases of compact among sovereign parties, without any common judge, each has an equal right to judge for itself, as well of the infraction as of the mode and measure of redress.

" *Resolved*, That the assertions, that the people of these United States, taken collectively as individuals, are now, or ever have been, united on the principle of the social compact, and, as such, are now formed into one nation or people, or that they have ever been so united in any one

* A Speech delivered in the Senate of the United States, on the 16th of February, 1833, in reply to Mr. Calhoun's Speech, on the Bill " further to provide for the Collection of Duties on Imports."

stage of their political existence; that the people of the several States composing the Union have not, as members thereof, retained their sovereignty; that the allegiance of their citizens has been transferred to the general government; that they have parted with the right of punishing treason through their respective State governments; and that they have not the right of judging in the last resort as to the extent of the powers reserved, and of consequence of those delegated, — are not only without foundation in truth, but are contrary to the most certain and plain historical facts, and the clearest deductions of reason; and that all exercise of power on the part of the general government, or any of its departments, claiming authority from such erroneous assumptions, must of necessity be unconstitutional, — must tend, directly and inevitably, to subvert the sovereignty of the States, to destroy the federal character of the Union, and to rear on its ruins a consolidated government, without constitutional check or limitation, and which must necessarily terminate in the loss of liberty itself."

On Saturday, the 16th of February, Mr. Calhoun spoke in opposition to the bill, and in support of these resolutions. He was followed by Mr. Webster in this speech.

Mr. President, — The gentleman from South Carolina has admonished us to be mindful of the opinions of those who shall come after us. We must take our chance, Sir, as to the light in which posterity will regard us. I do not decline its judgment, nor withhold myself from its scrutiny. Feeling that I am performing my public duty with singleness of heart and to the best of my ability, I fearlessly trust myself to the country, now and hereafter, and leave both my motives and my character to its decision.

The gentleman has terminated his speech in a tone of threat and defiance towards this bill, even should it become a law of the land, altogether unusual in the halls of Congress. But I shall not suffer myself to be excited into warmth by his denunciation of the measure which I support. Among the feelings which at this moment fill my breast, not the least is that of regret at the position in which the gentleman has placed himself. Sir, he does himself no justice. The cause which he has espoused finds no basis in the Constitution, no succor from public sympathy, no cheering from a patriotic community. He has no foothold on which to stand while he might display the powers of his acknowledged talents. Every thing beneath his feet is

hollow and treacherous. He is like a strong man struggling in a morass: every effort to extricate himself only sinks him deeper and deeper. And I fear the resemblance may be carried still farther; I fear that no friend can safely come to his relief, that no one can approach near enough to hold out a helping hand, without danger of going down himself, also, into the bottomless depths of this Serbonian bog.

The honorable gentleman has declared, that on the decision of the question now in debate may depend the cause of liberty itself. I am of the same opinion; but then, Sir, the liberty which I think is staked on the contest is not political liberty, in any general and undefined character, but our own well-understood and long-enjoyed *American* liberty.

Sir, I love Liberty no less ardently than the gentleman himself, in whatever form she may have appeared in the progress of human history. As exhibited in the master states of antiquity, as breaking out again from amidst the darkness of the Middle Ages, and beaming on the formation of new communities in modern Europe, she has, always and everywhere, charms for me. Yet, Sir, it is our own liberty, guarded by constitutions and secured by union, it is that liberty which is our paternal inheritance, it is our established, dear-bought, peculiar American liberty, to which I am chiefly devoted, and the cause of which I now mean, to the utmost of my power, to maintain and defend.

Mr. President, if I considered the constitutional question now before us as doubtful as it is important, and if I supposed that its decision, either in the Senate or by the country, was likely to be in any degree influenced by the manner in which I might now discuss it, this would be to me a moment of deep solicitude. Such a moment has once existed. There has been a time, when, rising in this place, on the same question, I felt, I must confess, that something for good or evil to the Constitution of the country might depend on an effort of mine. But circumstances are changed. Since that day, Sir, the public opinion has become awakened to this great question; it has grasped it; it has reasoned upon it, as becomes an intelligent and patriotic community, and has settled it, or now seems in the progress of settling it, by an authority which none can disobey, the authority of the people themselves.

I shall not, Mr. President, follow the gentleman, step by step,

through the course of his speech. Much of what he has said he has deemed necessary to the just explanation and defence of his own political character and conduct. On this I shall offer no comment. Much, too, has consisted of philosophical remark upon the general nature of political liberty, and the history of free institutions; and upon other topics, so general in their nature as to possess, in my opinion, only a remote bearing on the immediate subject of this debate.

But the gentleman's speech made some days ago, upon introducing his resolutions, those resolutions themselves, and parts of the speech now just concluded, may, I presume, be justly regarded as containing the whole South Carolina doctrine. That doctrine it is my purpose now to examine, and to compare it with the Constitution of the United States. I shall not consent, Sir, to make any new constitution, or to establish another form of government. I will not undertake to say what a constitution for these United States ought to be. That question the people have decided for themselves; and I shall take the instrument as they have established it, and shall endeavor to maintain it, in its plain sense and meaning, against opinions and notions which, in my judgment, threaten its subversion.

The resolutions introduced by the gentleman were apparently drawn up with care, and brought forward upon deliberation. I shall not be in danger, therefore, of misunderstanding him, or those who agree with him, if I proceed at once to these resolutions, and consider them as an authentic statement of those opinions upon the great constitutional question, by which the recent proceedings in South Carolina are attempted to be justified.

These resolutions are three in number.

The third seems intended to enumerate, and to deny, the several opinions expressed in the President's proclamation, respecting the nature and powers of this government. Of this third resolution, I purpose, at present, to take no particular notice.

The first two resolutions of the honorable member affirm these propositions, viz.: —

1. That the political system under which we live, and under which Congress is now assembled, is a *compact*, to which the people of the several States, as separate and sovereign communities, are *the parties*.

2. That these sovereign parties have a right to judge, each for itself, of any alleged violation of the Constitution by Congress; and, in case of such violation, to choose, each for itself, its own mode and measure of redress.

It is true, Sir, that the honorable member calls this a "constitutional" compact; but still he affirms it to be a compact between sovereign States. What precise meaning, then, does he attach to the term *constitutional?* When applied to compacts between sovereign States, the term *constitutional* affixes to the word *compact* no definite idea. Were we to hear of a constitutional league or treaty between England and France, or a constitutional convention between Austria and Russia, we should not understand what could be intended by such a league, such a treaty, or such a convention. In these connections, the word is void of all meaning; and yet, Sir, it is easy, quite easy, to see why the honorable gentleman has used it in these resolutions. He cannot open the book, and look upon our written frame of government, without seeing that it is called a *constitution.* This may well be appalling to him. It threatens his whole doctrine of compact, and its darling derivatives, nullification and secession, with instant confutation. Because, if he admits our instrument of government to be a *constitution*, then, for that very reason, it is not a compact between sovereigns; a constitution of government and a compact between sovereign powers being things essentially unlike in their very natures, and incapable of ever being the same. Yet the word *constitution* is on the very front of the instrument. He cannot overlook it. He seeks, therefore, to compromise the matter, and to sink all the substantial sense of the word, while he retains a resemblance of its sound. He introduces a new word of his own, viz. *compact*, as importing the principal idea, and designed to play the principal part, and degrades *constitution* into an insignificant, idle epithet, attached to *compact.* The whole then stands as a "*constitutional compact*"! And in this way he hopes to pass off a plausible gloss, as satisfying the words of the instrument. But he will find himself disappointed. Sir, I must say to the honorable gentleman, that, in our American political grammar, CONSTITUTION is a noun substantive; it imports a distinct and clear idea of itself; and it is not to lose its importance and dignity, it is not to be turned into a poor, ambiguous, senseless, unmeaning

adjective, for the purpose of accommodating any new set of political notions. Sir, we reject his new rules of syntax altogether. We will not give up our forms of political speech to the grammarians of the school of nullification. By the Constitution, we mean, not a "constitutional compact," but, simply and directly, the Constitution, the fundamental law; and if there be one word in the language which the people of the United States understand, this is that word. We know no more of a constitutional compact between sovereign powers, than we know of a *constitutional* indenture of copartnership, a *constitutional* deed of conveyance, or a *constitutional* bill of exchange. But we know what the *Constitution* is; we know what the plainly written, fundamental law is; we know what the bond of our Union and the security of our liberties is; and we mean to maintain and to defend it, in its plain sense and unsophisticated meaning.

The sense of the gentleman's proposition, therefore, is not at all affected, one way or the other, by the use of this word. That proposition still is, that our system of government is but a *compact* between the people of separate and sovereign States.

Was it Mirabeau, Mr. President, or some other master of the human passions, who has told us that words are things? They are indeed things, and things of mighty influence, not only in addresses to the passions and high-wrought feelings of mankind, but in the discussion of legal and political questions also; because a just conclusion is often avoided, or a false one reached, by the adroit substitution of one phrase, or one word, for another. Of this we have, I think, another example in the resolutions before us.

The first resolution declares that the people of the several States "*acceded*" to the Constitution, or to the constitutional compact, as it is called. This word "accede," not found either in the Constitution itself, or in the ratification of it by any one of the States, has been chosen for use here, doubtless, not without a well-considered purpose.

The natural converse of *accession* is *secession;* and, therefore, when it is stated that the people of the States acceded to the Union, it may be more plausibly argued that they may secede from it. If, in adopting the Constitution, nothing was done but acceding to a compact, nothing would seem necessary, in order to break it up, but to secede from the same compact. But the

term is wholly out of place. *Accession*, as a word applied to political associations, implies coming into a league, treaty, or confederacy, by one hitherto a stranger to it; and *secession* implies departing from such league or confederacy. The people of the United States have used no such form of expression in establishing the present government. They do not say that they *accede* to a league, but they declare that they *ordain* and *establish* a Constitution. Such are the very words of the instrument itself; and in all the States, without an exception, the language used by their conventions was, that they "*ratified the Constitution*"; some of them employing the additional words "assented to" and "adopted," but all of them "ratifying."

There is more importance than may, at first sight, appear, in the introduction of this new word by the honorable mover of these resolutions. Its adoption and use are indispensable to maintain those premises, from which his main conclusion is to be afterwards drawn. But before showing that, allow me to remark, that this phraseology tends to keep out of sight the just view of a previous political history, as well as to suggest wrong ideas as to what was actually done when the present Constitution was agreed to. In 1789, and before this Constitution was adopted, the United States had already been in a union, more or less close, for fifteen years. At least as far back as the meeting of the first Congress, in 1774, they had been in some measure, and for some national purposes, united together. Before the Confederation of 1781, they had declared independence jointly, and had carried on the war jointly, both by sea and land; and this not as separate States, but as one people. When, therefore, they formed that Confederation, and adopted its articles as articles of perpetual union, they did not come together for the first time; and therefore they did not speak of the States as *acceding* to the Confederation, although it was a league, and nothing but a league, and rested on nothing but plighted faith for its performance. Yet, even then, the States were not strangers to each other; there was a bond of union already subsisting between them; they were associated, united States; and the object of the Confederation was to make a stronger and better bond of union. Their representatives deliberated together on these proposed Articles of Confederation, and, being authorized by their respective States, finally "*ratified and confirmed*"

them. Inasmuch as they were already in union, they did not speak of *acceding* to the new Articles of Confederation, but of *ratifying and confirming* them; and this language was not used inadvertently, because, in the same instrument, *accession* is used in its proper sense, when applied to Canada, which was altogether a stranger to the existing union. "Canada," says the eleventh article, "*acceding* to this Confederation, and joining in the measures of the United States, shall be admitted into the Union."

Having thus used the terms *ratify* and *confirm*, even in regard to the old Confederation, it would have been strange indeed, if the people of the United States, after its formation, and when they came to establish the present Constitution, had spoken of the States, or the people of the States, as *acceding* to this Constitution. Such language would have been ill-suited to the occasion. It would have implied an existing separation or disunion among the States, such as never has existed since 1774. No such language, therefore, was used. The language actually employed is, *adopt*, *ratify*, *ordain*, *establish*.

Therefore, Sir, since any State, before she can prove her right to dissolve the Union, must show her authority to undo what has been done, no State is at liberty to *secede*, on the ground that she and other States have done nothing but *accede*. She must show that she has a right to *reverse* what has been *ordained*, to *unsettle* and *overthrow* what has been *established*, to *reject* what the people have *adopted*, and to *break up* what they have *ratified;* because these are the terms which express the transactions which have actually taken place. In other words, she must show her right to make a revolution.

If, Mr. President, in drawing these resolutions, the honorable member had confined himself to the use of constitutional language, there would have been a wide and awful *hiatus* between his premises and his conclusion. Leaving out the two words *compact* and *accession*, which are not constitutional modes of expression, and stating the matter precisely as the truth is, his first resolution would have affirmed that *the people of the several States ratified this Constitution, or form of government.* These are the very words of South Carolina herself, in her act of ratification. Let, then, his first resolution tell the exact truth; let it state the fact precisely as it exists; let it say that the people of

the several States ratified a constitution, or form of government and then, Sir, what will become of his inference in his second resolution, which is in these words, viz. "that, as in all other cases of compact among sovereign parties, each has an equal right to judge for itself, as well of the infraction as of the mode and measure of redress"? It is obvious, is it not, Sir? that this conclusion requires for its support quite other premises; it requires premises which speak of *accession* and of *compact* between sovereign powers; and, without such premises, it is altogether unmeaning.

Mr. President, if the honorable member will truly state what the people did in forming this Constitution, and then state what they must do if they would now undo what they then did, he will unavoidably state a case of revolution. Let us see if it be not so. He must state, in the first place, that the people of the several States adopted and ratified this Constitution, or form of government; and, in the next place, he must state that they have a right to undo this; that is to say, that they have a right to discard the form of government which they have adopted, and to break up the Constitution which they have ratified. Now, Sir, this is neither more nor less than saying that they have a right to make a revolution. To reject an established government, to break up a political constitution, is revolution.

I deny that any man can state accurately what was done by the people, in establishing the present Constitution, and then state accurately what the people, or any part of them, must now do to get rid of its obligations, without stating an undeniable case of the overthrow of government. I admit, of course, that the people may, if they choose, overthrow the government. But, then, that is revolution. The doctrine now contended for is, that, by *nullification* or *secession*, the obligations and authority of the government may be set aside or rejected, without revolution. But that is what I deny; and what I say is, that no man can state the case with historical accuracy, and in constitutional language, without showing that the honorable gentleman's right, as asserted in his conclusion, is a revolutionary right merely; that it does not and cannot exist under the Constitution, or agreeably to the Constitution, but can come into existence only when the Constitution is overthrown. This is the

reason, Sir, which makes it necessary to abandon the use of constitutional language for a new vocabulary, and to substitute, in the place of plain historical facts, a series of assumptions. This is the reason why it is necessary to give new names to things, to speak of the Constitution, not as a constitution, but as a compact, and of the ratifications by the people, not as ratifications, but as acts of accession.

Sir, I intend to hold the gentleman to the written record. In the discussion of a constitutional question, I intend to impose upon him the restraints of constitutional language. The people have ordained a Constitution; can they reject it without revolution? They have established a form of government; can they overthrow it without revolution? These are the true questions.

Allow me now, Mr. President, to inquire further into the extent of the propositions contained in the resolutions, and their necessary consequences.

Where sovereign communities are parties, there is no essential difference between a compact, a confederation, and a league. They all equally rest on the plighted faith of the sovereign party. A league, or confederacy, is but a subsisting or continuing treaty.

The gentleman's resolutions, then, affirm, in effect, that these twenty-four United States are held together only by a subsisting treaty, resting for its fulfilment and continuance on no inherent power of its own, but on the plighted faith of each State; or, in other words, that our Union is but a league; and, as a consequence from this proposition, they further affirm that, as sovereigns are subject to no superior power, the States must judge, each for itself, of any alleged violation of the league; and if such violation be supposed to have occurred, each may adopt any mode or measure of redress which it shall think proper.

Other consequences naturally follow, too, from the main proposition. If a league between sovereign powers have no limitation as to the time of its duration, and contain nothing making it perpetual, it subsists only during the good pleasure of the parties, although no violation be complained of. If, in the opinion of either party, it be violated, such party may say that he will no longer fulfil its obligations on his part, but will consider

the whole league or compact at an end, although it might be one of its stipulations that it should be perpetual. Upon this principle, the Congress of the United States, in 1798, declared null and void the treaty of alliance between the United States and France, though it professed to be a perpetual alliance.

If the violation of the league be accompanied with serious injuries, the suffering party, being sole judge of his own mode and measure of redress, has a right to indemnify himself by reprisals on the offending members of the league; and reprisals, if the circumstances of the case require it, may be followed by direct, avowed, and public war.

The necessary import of the resolution, therefore, is, that the United States are connected only by a league; that it is in the good pleasure of every State to decide how long she will choose to remain a member of this league; that any State may determine the extent of her own obligations under it, and accept or reject what shall be decided by the whole; that she may also determine whether her rights have been violated, what is the extent of the injury done her, and what mode and measure of redress her wrongs may make it fit and expedient for her to adopt. The result of the whole is, that any State may secede at pleasure; that any State may resist a law which she herself may choose to say exceeds the power of Congress; and that, as a sovereign power, she may redress her own grievances, by her own arm, at her own discretion. She may make reprisals; she may cruise against the property of other members of the league; she may authorize captures, and make open war.

If, Sir, this be our political condition, it is time the people of the United States understood it. Let us look for a moment to the practical consequences of these opinions. One State, holding an embargo law unconstitutional, may declare her opinion, and withdraw from the Union. *She* secedès. Another, forming and expressing the same judgment on a law laying duties on imports, may withdraw also. *She* secedes. And as, in her opinion, money has been taken out of the pockets of her citizens illegally, under pretence of this law, and as she has power to redress their wrongs, she may demand satisfaction; and, if refused, she may take it with a strong hand. The gentleman has himself pronounced the collection of duties, under existing laws, to be nothing but robbery. Robbers, of course, may be rightful-

ly dispossessed of the fruits of their flagitious crimes; and therefore, reprisals, impositions on the commerce of other States, foreign alliances against them, or open war, are all modes of redress justly open to the discretion and choice of South Carolina; for she is to judge of her own rights, and to seek satisfaction for her own wrongs, in her own way.

But, Sir, a *third* State is of opinion, not only that these laws of imposts are constitutional, but that it is the absolute duty of Congress to pass and to maintain such laws; and that, by omitting to pass and maintain them, its constitutional obligations would be grossly disregarded. She herself relinquished the power of protection, she might allege, and allege truly, and gave it up to Congress, on the faith that Congress would exercise it. If Congress now refuse to exercise it, Congress does, as she may insist, break the condition of the grant, and thus manifestly violate the Constitution; and for this violation of the Constitution, *she* may threaten to secede also. Virginia may secede, and hold the fortresses in the Chesapeake. The Western States may secede, and take to their own use the public lands. Louisiana may secede, if she choose, form a foreign alliance, and hold the mouth of the Mississippi. If one State may secede, ten may do so, twenty may do so, twenty-three may do so. Sir, as these secessions go on, one after another, what is to constitute the United States? Whose will be the army? Whose the navy? Who will pay the debts? Who fulfil the public treaties? Who perform the constitutional guaranties? Who govern this District and the Territories? Who retain the public property?

Mr. President, every man must see that these are all questions which can arise only *after a revolution.* They presuppose the breaking up of the government. While the Constitution lasts, they are repressed; they spring up to annoy and startle us only from its grave.

The Constitution does not provide for events which must be preceded by its own destruction. SECESSION, therefore, since it must bring these consequences with it, is REVOLUTIONARY, and NULLIFICATION is equally REVOLUTIONARY. What is revolution? Why, Sir, that is revolution which overturns, or controls, or successfully resists, the existing public authority; that which arrests the exercise of the supreme power; that which introduces a new paramount authority into the rule of the State. Now

Sir, this is the precise object of nullification. It attempts to supersede the supreme legislative authority. It arrests the arm of the executive magistrate. It interrupts the exercise of the accustomed judicial power. Under the name of an ordinance, it declares null and void, within the State, all the revenue laws of the United States. Is not this revolutionary? Sir, so soon as this ordinance shall be carried into effect, *a revolution* will have commenced in South Carolina. She will have thrown off the authority to which her citizens have heretofore been subject. She will have declared her own opinions and her own will to be above the laws and above the power of those who are intrusted with their administration. If she makes good these declarations, she is revolutionized. As to her, it is as distinctly a change of the supreme power, as the American Revolution of 1776. That revolution did not subvert government in all its forms. It did not subvert local laws and municipal administrations. It only threw off the dominion of a power claiming to be superior, and to have a right, in many important respects, to exercise legislative authority. Thinking this authority to have been usurped or abused, the American Colonies, now the United States, bade it defiance, and freed themselves from it by means of a revolution. But that revolution left them with their own municipal laws still, and the forms of local government. If Carolina now shall effectually resist the laws of Congress; if she shall be her own judge, take her remedy into her own hands, obey the laws of the Union when she pleases and disobey them when she pleases, she will relieve herself from a paramount power as distinctly as the American Colonies did the same thing in 1776. In other words, she will achieve, as to herself, a revolution.

But, Sir, while practical nullification in South Carolina would be, as to herself, actual and distinct revolution, its necessary tendency must also be to spread revolution, and to break up the Constitution, as to all the other States. It strikes a deadly blow at the vital principle of the whole Union. To allow State resistance to the laws of Congress to be rightful and proper, to admit nullification in some States, and yet not expect to see a dismemberment of the entire government, appears to me the wildest illusion, and the most extravagant folly. The gentleman seems not conscious of the direction or the rapidity of his own course. The current of his opinions sweeps him along, he

knows not whither. To begin with nullification, with the avowed intent, nevertheless, not to proceed to secession, dismemberment, and general revolution, is as if one were to take the plunge of Niagara, and cry out that he would stop half way down. In the one case, as in the other, the rash adventurer must go to the bottom of the dark abyss below, were it not that that abyss has no discovered bottom.

Nullification, if successful, arrests the power of the law, absolves citizens from their duty, subverts the foundation both of protection and obedience, dispenses with oaths and obligations of allegiance, and elevates another authority to supreme command. Is not this revolution? And it raises to supreme command four-and-twenty distinct powers, each professing to be under a general government, and yet each setting its laws at defiance at pleasure. Is not this anarchy, as well as revolution? Sir, the Constitution of the United States was received as a whole, and for the whole country. If it cannot stand altogether, it cannot stand in parts; and if the laws cannot be executed everywhere, they cannot long be executed anywhere. The gentleman very well knows that all duties and imposts must be uniform throughout the country. He knows that we cannot have one rule or one law for South Carolina, and another for other States. He must see, therefore, and does see, and every man sees, that the only alternative is a repeal of the laws throughout the whole Union, or their execution in Carolina as well as elsewhere. And this repeal is demanded because a single State interposes her veto, and threatens resistance! The result of the gentleman's opinion, or rather the very text of his doctrine, is, that no act of Congress can bind all the States, the constitutionality of which is not admitted by all; or, in other words, that no single State is bound, against its own dissent, by a law of imposts. This is precisely the evil experienced under the old Confederation, and for remedy of which this Constitution was adopted. The leading object in establishing this government, an object forced on the country by the condition of the times and the absolute necessity of the law, was to give to Congress power to lay and collect imposts *without the consent of particular States*. The Revolutionary debt remained unpaid; the national treasury was bankrupt; the country was destitute of credit; Congress issued its requisitions on the States, and the

States neglected them; there was no power of coercion but war, Congress could not lay imposts, or other taxes, by its own authority; the whole general government, therefore, was little more than a name. The Articles of Confederation, as to purposes of revenue and finance, were nearly a dead letter. The country sought to escape from this condition, at once feeble and disgraceful, by constituting a government which should have power, of itself, to lay duties and taxes, and to pay the public debt, and provide for the general welfare; and to lay these duties and taxes in all the States, without asking the consent of the State governments. This was the very power on which the new Constitution was to depend for all its ability to do good; and without it, it can be no government, now or at any time. Yet, Sir, it is precisely against this power, so absolutely indispensable to the very being of the government, that South Carolina directs her ordinance. She attacks the government in its authority to raise revenue, the very main-spring of the whole system; and if she succeed, every movement of that system must inevitably cease. It is of no avail that she declares that she does not resist the law as a revenue law, but as a law for protecting manufactures. It is a revenue law; it is the very law by force of which the revenue is collected; if it be arrested in any State, the revenue ceases in that State; it is, in a word, the sole reliance of the government for the means of maintaining itself and performing its duties.

Mr. President, the alleged right of a State to decide constitutional questions for herself necessarily leads to force, because other States must have the same right, and because different States will decide differently; and when these questions arise between States, if there be no superior power, they can be decided only by the law of force. On entering into the Union, the people of each State gave up a part of their own power to make laws for themselves, in consideration that, as to common objects, they should have a part in making laws for other States. In other words, the people of all the States agreed to create a common government, to be conducted by common counsels. Pennsylvania, for example, yielded the right of laying imposts in her own ports, in consideration that the new government, in which she was to have a share, should possess the power of laying imposts on all the States. If South Carolina now refuses

to submit to this power, she breaks the condition on which other States entered into the Union. She partakes of the common counsels, and therein assists to bind others, while she refuses to be bound herself. It makes no difference in the case, whether she does all this without reason or pretext, or whether she sets up as a reason, that, in her judgment, the acts complained of are unconstitutional. In the judgment of other States, they are not so. It is nothing to them that she offers some reason or some apology for her conduct, if it be one which they do not admit. It is not to be expected that any State will violate her duty without some plausible pretext. That would be too rash a defiance of the opinion of mankind. But if it be a pretext which lies in her own breast; if it be no more than an opinion which she says she has formed, how can other States be satisfied with this? How can they allow her to be judge of her own obligations? Or, if she may judge of her obligations, may they not judge of their rights also? May not the twenty-three entertain an opinion as well as the twenty-fourth? And if it be their right, in their own opinion, as expressed in the common council, to enforce the law against her, how is she to say that her right and her opinion are to be every thing, and their right and their opinion nothing?

Mr. President, if we are to receive the Constitution as the text, and then to lay down in its margin the contradictory commentaries which have been, and which may be, made by different States, the whole page would be a polyglot indeed. It would speak with as many tongues as the builders of Babel, and in dialects as much confused, and mutually as unintelligible The very instance now before us presents a practical illustration. The law of the last session is declared unconstitutional in South Carolina, and obedience to it is refused. In other States, it is admitted to be strictly constitutional. You walk over the limit of its authority, therefore, when you pass a State line. On one side it is law, on the other side a nullity; and yet it is passed by a common government, having the same authority in all the States.

Such, Sir, are the inevitable results of this doctrine. Beginning with the original error, that the Constitution of the United States is nothing but a compact between sovereign States; asserting, in the next step, that each State has a right to be its

own sole judge of the extent of its own obligations, and consequently of the constitutionality of laws of Congress; and, in the next, that it may oppose whatever it sees fit to declare unconstitutional, and that it decides for itself on the mode and measure of redress, — the argument arrives at once at the conclusion, that what a State dissents from, it may nullify; what it opposes, it may oppose by force; what it decides for itself, it may execute by its own power; and that, in short, it is itself supreme over the legislation of Congress, and supreme over the decisions of the national judicature; supreme over the constitution of the country, supreme over the supreme law of the land. However it seeks to protect itself against these plain inferences, by saying that an unconstitutional law is no law, and that it only opposes such laws as are unconstitutional, yet this does not in the slightest degree vary the result; since it insists on deciding this question for itself; and, in opposition to reason and argument, in opposition to practice and experience, in opposition to the judgment of others, having an equal right to judge, it says, only, "Such is my opinion, and my opinion shall be my law, and I will support it by my own strong hand. I denounce the law; I declare it unconstitutional; that is enough; it shall not be executed. Men in arms are ready to resist its execution. An attempt to enforce it shall cover the land with blood. Elsewhere it may be binding; but here it is trampled under foot."

This, Sir, is practical nullification.

And now, Sir, against all these theories and opinions, I maintain, —

1. That the Constitution of the United States is not a league, confederacy, or compact between the people of the several States in their sovereign capacities; but a government proper, founded on the adoption of the people, and creating direct relations between itself and individuals.

2. That no State authority has power to dissolve these relations; that nothing can dissolve them but revolution; and that, consequently, there can be no such thing as secession without revolution.

3. That there is a supreme law, consisting of the Constitution of the United States, and acts of Congress passed in pursuance of it, and treaties; and that, in cases not capable of assuming the character of a suit in law or equity, Congress

must judge of, and finally interpret, this supreme law so often as it has occasion to pass acts of legislation; and in cases capable of assuming, and actually assuming, the character of a suit, the Supreme Court of the United States is the final interpreter.

4. That an attempt by a State to abrogate, annul, or nullify an act of Congress, or to arrest its operation within her limits, on the ground that, in her opinion, such law is unconstitutional, is a direct usurpation on the just powers of the general government, and on the equal rights of other States; a plain violation of the Constitution, and a proceeding essentially revolutionary in its character and tendency.

Whether the Constitution be a compact between States in their sovereign capacities, is a question which must be mainly argued from what is contained in the instrument itself. We all agree that it is an instrument which has been in some way clothed with power. We all admit that it speaks with authority. The first question then is, What does it say of itself? What does it purport to be? Does it style itself a league, confederacy, or compact between sovereign States? It is to be remembered, Sir, that the Constitution began to speak only after its adoption. Until it was ratified by nine States, it was but a proposal, the mere draught of an instrument. It was like a deed drawn, but not executed. The Convention had framed it; sent it to Congress, then sitting under the Confederation; Congress had transmitted it to the State legislatures; and by these last it was laid before conventions of the people in the several States. All this while it was inoperative paper. It had received no stamp of authority, no sanction; it spoke no language. But when ratified by the people in their respective conventions, then it had a voice, and spoke authentically. Every word in it had then received the sanction of the popular will, and was to be received as the expression of that will. What the Constitution says of itself, therefore, is as conclusive as what it says on any other point. Does it call itself a "compact"? Certainly not. It uses the word *compact* but once, and that is when it declares that the States shall enter into no compact. Does it call itself a "league," a "confederacy," a "subsisting treaty between the States"? Certainly not. There is not a particle of such language in all its pages. But it declares itself a CONSTITUTION. What is a *constitution?* Certainly not a league, compact, or

confederacy, but *a fundamental law.* That fundamental regulation which determines the manner in which the public authority is to be executed, is what forms the *constitution* of a state. Those primary rules which concern the body itself, and the very being of the political society, the form of government, and the manner in which power is to be exercised, — all, in a word, which form together the *constitution of a state*, — these are the fundamental laws. This, Sir, is the language of the public writers. But do we need to be informed, in this country, what a *constitution* is? Is it not an idea perfectly familiar, definite, and well settled? We are at no loss to understand what is meant by the constitution of one of the States; and the Constitution of the United States speaks of itself as being an instrument of the same nature. It says, this *Constitution* shall be the law of the land, any thing in any State *constitution* to the contrary notwithstanding. And it speaks of itself, too, in plain contradistinction from a confederation; for it says that all debts contracted, and all engagements entered into, by the United States, shall be as valid under this *Constitution* as under the *Confederation.* It does not say, as valid under this *compact*, or this league, or this confederation, as under the former confederation, but as valid under this *Constitution.*

This, then, Sir, is declared to be a *constitution.* A constitution is the fundamental law of the state; and this is expressly declared to be the supreme law. It is as if the people had said "We prescribe this fundamental law," or "this supreme law,' for they do say that they establish this Constitution, and that it shall be the supreme law. They say that they *ordain and establish* it. Now, Sir, what is the common application of these words? We do not speak of *ordaining* leagues and compacts. If this was intended to be a compact or league, and the States to be parties to it, why was it not so said? Why is there found no one expression in the whole instrument indicating such intent? The old Confederation was expressly called a *league*, and into this league it was declared that the States, as States, severally entered. Why was not similar language used in the Constitution, if a similar intention had existed? Why was it not said, "the States enter into this new league," "the States form this new confederation," or "the States agree to this new compact"? Or why was it not said, in the language of

the gentleman's resolution, that the people of the several States acceded to this compact in their sovereign capacities? What reason is there for supposing that the framers of the Constitution rejected expressions appropriate to their own meaning, and adopted others wholly at war with that meaning?

Again, Sir, the Constitution speaks of that political system which is established as "the government of the United States." Is it not doing strange violence to language to call a league or a compact between sovereign powers a *government?* The government of a state is that organization in which the political power resides. It is the political being created by the constitution or fundamental law. The broad and clear difference between a government and a league or compact is, that a government is a body politic; it has a will of its own; and it possesses powers and faculties to execute its own purposes. Every compact looks to some power to enforce its stipulations. Even in a compact between sovereign communities, there always exists this ultimate reference to a power to insure its execution; although, in such case, this power is but the force of one party against the force of another; that is to say, the power of war. But a *government* executes its decisions by its own supreme authority. Its use of force in compelling obedience to its own enactments is not war. It contemplates no opposing party having a right of resistance. It rests on its own power to enforce its own will; and when it ceases to possess this power, it is no longer a government.

Mr. President, I concur so generally in the very able speech of the gentleman from Virginia near me,* that it is not without diffidence and regret that I venture to differ with him on any point. His opinions, Sir, are redolent of the doctrines of a very distinguished school, for which I have the highest regard, of whose doctrines I can say, what I can also say of the gentleman's speech, that, while I concur in the results, I must be permitted to hesitate about some of the premises. I do not agree that the Constitution is a compact between States in their sovereign capacities. I do not agree, that, in strictness of language, it is a compact at all. But I do agree that it is founded on consent or agreement, or on compact, if the gentleman prefers

* Mr. Rives

that word, and means no more by it than voluntary consent or agreement. The Constitution, Sir, is not a contract, but the result of a contract; meaning by contract no more than assent. Founded on consent, it is a government proper. Adopted by the agreement of the people of the United States, when adopted, it has become a Constitution. The people have agreed to make a Constitution; but when made, that Constitution becomes what its name imports. It is no longer a mere agreement. Our laws, Sir, have their foundation in the agreement or consent of the two houses of Congress. We say, habitually, that one house proposes a bill, and the other agrees to it; but the result of this agreement is not a compact, but a law. The law, the statute, is not the agreement, but something created by the agreement; and something which, when created, has a new character, and acts by its own authority. So the Constitution of the United States, founded in or on the consent of the people, may be said to rest on compact or consent; but it is not itself the compact, but its result. When the people agree to erect a government, and actually erect it, the thing is done, and the agreement is at an end. The compact is executed, and the end designed by it attained. Henceforth, the fruit of the agreement exists, but the agreement itself is merged in its own accomplishment; since there can be no longer a subsisting agreement or compact *to form* a constitution or government, after that constitution or government has been actually formed and established.

It appears to me, Mr. President, that the plainest account of the establishment of this government presents the most just and philosophical view of its foundation. The people of the several States had their separate State governments; and between the States there also existed a Confederation. With this condition of things the people were not satisfied, as the Confederation had been found not to fulfil its intended objects. It was *proposed*, therefore, to erect a new, common government, which should possess certain definite powers, such as regarded the prosperity of the people of all the States, and to be formed upon the general model of American constitutions. This proposal was assented to, and an instrument was presented to the people of the several States for their consideration. They approved it, and agreed to adopt it, as a Constitution. They executed that

agreement; they adopted the Constitution as a Constitution, and henceforth it must stand as a Constitution until it shall be altogether destroyed. Now, Sir, is not this the truth of the whole matter? And is not all that we have heard of compact between sovereign States the mere effect of a theoretical and artificial mode of reasoning upon the subject? a mode of reasoning which disregards plain facts for the sake of hypothesis?

Mr. President, the nature of sovereignty or sovereign power has been extensively discussed by gentlemen on this occasion, as it generally is when the origin of our government is debated. But I confess myself not entirely satisfied with arguments and illustrations drawn from that topic. The sovereignty of government is an idea belonging to the other side of the Atlantic. No such thing is known in North America. Our governments are all limited. In Europe, sovereignty is of feudal origin, and imports no more than the state of the sovereign. It comprises his rights, duties, exemptions, prerogatives, and powers. But with us, all power is with the people. They alone are sovereign; and they erect what governments they please, and confer on them such powers as they please. None of these governments is sovereign, in the European sense of the word, all being restrained by written constitutions. It seems to me, therefore, that we only perplex ourselves when we attempt to explain the relations existing between the general government and the several State governments, according to those ideas of sovereignty which prevail under systems essentially different from our own.

But, Sir, to return to the Constitution itself; let me inquire what it relies upon for its own continuance and support. I hear it often suggested, that the States, by refusing to appoint Senators and Electors, might bring this government to an end. Perhaps that is true; but the same may be said of the State governments themselves. Suppose the legislature of a State, having the power to appoint the governor and the judges, should omit that duty, would not the State government remain unorganized? No doubt, all elective governments may be broken up by a general abandonment, on the part of those intrusted with political powers, of their appropriate duties. But one popular government has, in this respect, as much security as another. The maintenance of this Constitution does not depend on the plighted faith of the States, as States, to support it; and

this again shows that it is not a league. It relies on individual duty and obligation.

The Constitution of the United States creates direct relations between this government and individuals. This government may punish individuals for treason, and all other crimes in the code, when committed against the United States. It has power, also, to tax individuals, in any mode, and to any extent; and it possesses the further power of demanding from individuals military service. Nothing, certainly, can more clearly distinguish a government from a confederation of states than the possession of these powers. No closer relations can exist between individuals and any government.

On the other hand, the government owes high and solemn duties to every citizen of the country. It is bound to protect him in his most important rights and interests. It makes war for his protection, and no other government in the country can make war. It makes peace for his protection, and no other government can make peace. It maintains armies and navies for his defence and security, and no other government is allowed to maintain them. He goes abroad beneath its flag, and carries over all the earth a national character imparted to him by this government, and which no other government can impart. In whatever relates to war, to peace, to commerce, he knows no other government. All these, Sir, are connections as dear and as sacred as can bind individuals to any government on earth. It is not, therefore, a compact between States, but a government proper, operating directly upon individuals, yielding to them protection on the one hand, and demanding from them obedience on the other.

There is no language in the whole Constitution applicable to a confederation of States. If the States be parties, as States, what are their rights, and what their respective covenants and stipulations? And where are their rights, covenants, and stipulations expressed? The States engage for nothing, they promise nothing. In the Articles of Confederation, they did make promises, and did enter into engagements, and did plight the faith of each State for their fulfilment; but in the Constitution there is nothing of that kind. The reason is, that, in the Constitution, it is the *people* who speak, and not the States. The people ordain the Constitution, and therein address themselves

to the States, and to the legislatures of the States, in the language of injunction and prohibition. The Constitution utters its behests in the name and by authority of the people, and it does not exact from States any plighted public faith to maintain it. On the contrary, it makes its own preservation depend on individual duty and individual obligation. Sir, the States cannot omit to appoint Senators and Electors. It is not a matter resting in State discretion or State pleasure. The Constitution has taken better care of its own preservation. It lays its hand on individual conscience and individual duty. It incapacitates any man to sit in the legislature of a State, who shall not first have taken his solemn oath to support the Constitution of the United States. From the obligation of this oath, no State power can discharge him. All the members of all the State legislatures are as religiously bound to support the Constitution of the United States as they are to support their own State constitution. Nay, Sir, they are as solemnly sworn to support it as we ourselves are, who are members of Congress.

No member of a State legislature can refuse to proceed, at the proper time, to elect Senators to Congress, or to provide for the choice of Electors of President and Vice-President, any more than the members of this Senate can refuse, when the appointed day arrives, to meet the members of the other house, to count the votes for those officers, and ascertain who are chosen. In both cases, the duty binds, and with equal strength, the conscience of the individual member, and it is imposed on all by an oath in the same words. Let it then, never be said, Sir, that it is a matter of discretion with the States whether they will continue the government, or break it up by refusing to appoint Senators and to elect Electors. They have no discretion in the matter. The members of their legislatures cannot avoid doing either, so often as the time arrives, without a direct violation of their duty and their oaths; such a violation as would break up any other government.

Looking still further to the provisions of the Constitution itself, in order to learn its true character, we find its great apparent purpose to be, to unite the people of all the States under one general government, for certain definite objects, and, to the extent of this union, to restrain the separate authority of the States. Congress only can declare war; therefore, when one

State is at war with a foreign nation, all must be at war. The President and the Senate only can make peace; when peace is made for one State, therefore, it must be made for all.

Can any thing be conceived more preposterous, than that any State should have power to nullify the proceedings of the general government respecting peace and war? When war is declared by a law of Congress, can a single State nullify that law, and remain at peace? And yet she may nullify that law as well as any other. If the President and Senate make peace, may one State, nevertheless, continue the war? And yet, if she can nullify a law, she may quite as well nullify a treaty.

The truth is, Mr. President, and no ingenuity of argument, no subtilty of distinction can evade it, that, as to certain purposes, the people of the United States are one people. They are one in making war, and one in making peace; they are one in regulating commerce, and one in laying duties of imposts. The very end and purpose of the Constitution was, to make them one people in these particulars; and it has effectually accomplished its object. All this is apparent on the face of the Constitution itself. I have already said, Sir, that to obtain a power of direct legislation over the people, especially in regard to imposts, was always prominent as a reason for getting rid of the Confederation, and forming a new Constitution. Among innumerable proofs of this, before the assembling of the Convention, allow me to refer only to the report of the committee of the old Congress, July, 1785.

But, Sir, let us go to the actual formation of the Constitution; let us open the journal of the Convention itself, and we shall see that the very first resolution which the Convention adopted, was, "THAT A NATIONAL GOVERNMENT OUGHT TO BE ESTABLISHED, CONSISTING OF A SUPREME LEGISLATURE, JUDICIARY, AND EXECUTIVE."

This itself completely negatives all idea of league, and compact, and confederation. Terms could not be chosen more fit to express an intention to establish a national government, and to banish for ever all notion of a compact between sovereign States.

This resolution was adopted on the 30th of May, 1787. Afterwards, the style was altered, and, instead of being called a national government, it was called the government of th

United States; but the substance of this resolution was retained, and was at the head of that list of resolutions which was afterwards sent to the committee who were to frame the instrument.

It is true, there were gentlemen in the Convention, who were for retaining the Confederation, and amending its Articles; but the majority was against this, and was for a national government. Mr. Patterson's propositions, which were for continuing the Articles of Confederation with additional powers, were submitted to the Convention on the 15th of June, and referred to the committee of the whole. The resolutions forming the basis of a national government, which had once been agreed to in the committee of the whole, and reported, were recommitted to the same committee, on the same day. The Convention, then, in committee of the whole, on the 19th of June, had both these plans before them; that is to say, the plan of a confederacy, or compact, between States, and the plan of a national government. Both these plans were considered and debated, and the committee reported, "That they do not agree to the propositions offered by the honorable Mr. Patterson, but that they again submit the resolutions formerly reported." If, Sir, any historical fact in the world be plain and undeniable, it is that the Convention deliberated on the expediency of continuing the Confederation, with some amendments, and rejected that scheme, and adopted the plan of a national government, with a legislature, an executive, and a judiciary of its own. They were asked to preserve the league; they rejected the proposition. They were asked to continue the existing compact between States; they rejected it. They rejected compact, league, and confederation, and set themselves about framing the constitution of a national government; and they accomplished what they undertook.

If men will open their eyes fairly to the lights of history, it is impossible to be deceived on this point. The great object was to supersede the Confederation, by a regular government; because, under the Confederation, Congress had power only to make requisitions on States; and if States declined compliance, as they did, there was no remedy but war against such delinquent States. It would seem, from Mr. Jefferson's correspondence, in 1786 and 1787, that he was of opinion that even this

remedy ought to be tried. "There will be no money in the treasury," said he, "till the confederacy shows its teeth"; and he suggests that a single frigate would soon levy, on the commerce of a delinquent State, the deficiency of its contribution. But this would be war; and it was evident that a confederacy could not long hold together, which should be at war with its members. The Constitution was adopted to avoid this necessity. It was adopted that there might be a government which should act directly on individuals, without borrowing aid from the State governments. This is clear as light itself on the very face of the provisions of the Constitution, and its whole history tends to the same conclusion. Its framers gave this very reason for their work in the most distinct terms. Allow me to quote but one or two proofs, out of hundreds. That State, so small in territory, but so distinguished for learning and talent, Connecticut, had sent to the general Convention, among other members, Samuel Johnston and Oliver Ellsworth. The Constitution having been framed, it was submitted to a convention of the people of Connecticut for ratification on the part of that State; and Mr. Johnston and Mr. Ellsworth were also members of this convention. On the first day of the debates, being called on to explain the reasons which led the Convention at Philadelphia to recommend such a Constitution, after showing the insufficiency of the existing confederacy, inasmuch as it applied to States, as States, Mr. Johnston proceeded to say, —

"The Convention saw this imperfection in attempting to legislate for States in their political capacity, that the coercion of law can be exercised by nothing but a military force. They have, therefore, gone upon entirely new ground. They have formed one new nation out of the individual States. The Constitution vests in the general legislature a power to make laws in matters of national concern; to appoint judges to decide upon these laws; and to appoint officers to carry them into execution. This excludes the idea of an armed force. The power which is to enforce these laws is to be a legal power, vested in proper magistrates. The force which is to be employed is the energy of law; and this force is to operate only upon individuals who fail in their duty to their country. This is the peculiar glory of the Constitution, that it depends upon the mild and equal energy of the magistracy for the execution of the laws."

In the further course of the debate, Mr. Ellsworth said, —

"In republics, it is a fundamental principle, that the majority govern, and that the minority comply with the general voice. How contrary, then, to republican principles, how humiliating, is our present situation! A single State can rise up, and put a *veto* upon the most important public measures. We have seen this actually take place; a single State has controlled the general voice of the Union; a minority, a very small minority, has governed us. So far is this from being consistent with republican principles, that it is, in effect, the worst species of monarchy.

"Hence we see how necessary for the Union is a coercive principle. No man pretends the contrary. We all see and feel this necessity. The only question is, Shall it be a coercion of law, or a coercion of arms? There is no other possible alternative. Where will those who oppose a coercion of law come out? Where will they end? A necessary consequence of their principles is a war of the States one against another. I am for coercion by law; that coercion which acts only upon delinquent individuals. This Constitution does not attempt to coerce sovereign bodies, States, in their political capacity. No coercion is applicable to such bodies, but that of an armed force. If we should attempt to execute the laws of the Union by sending an armed force against a delinquent State, it would involve the good and bad, the innocent and guilty, in the same calamity. But this legal coercion singles out the guilty individual, and punishes him for breaking the laws of the Union."

Indeed, Sir, if we look to all contemporary history, to the numbers of the Federalist, to the debates in the conventions, to the publications of friends and foes, they all agree, that a change had been made from a confederacy of States to a different system; they all agree, that the Convention had formed a Constitution for a national government. With this result some were satisfied, and some were dissatisfied; but all admitted that the thing had been done. In none of these various productions and publications did any one intimate that the new Constitution was but another compact between States in their sovereign capacities. I do not find such an opinion advanced in a single instance. Everywhere, the people were told that the old Confederation was to be abandoned, and a new system to be tried; that a proper government was proposed, to be founded in the name of the people, and to have a regular organization of its own. Everywhere, the people were told that it was to be a government with direct powers to make laws over individuals, and

to lay taxes and imposts without the consent of the States. Everywhere, it was understood to be a popular Constitution. It came to the people for their adoption, and was to rest on the same deep foundation as the State constitutions themselves. Its most distinguished advocates, who had been themselves members of the Convention, declared that the very object of submitting the Constitution to the people was, to preclude the possibility of its being regarded as a mere compact. "However gross a heresy," say the writers of the Federalist, "it may be to maintain that a party to a *compact* has a right to revoke that *compact*, the doctrine itself has had respectable advocates. The possibility of a question of this nature proves the necessity of laying the foundations of our national government deeper than in the mere sanction of delegated authority. The fabric of American empire ought to rest on the solid basis of THE CONSENT OF THE PEOPLE."

Such is the language, Sir, addressed to the people, while they yet had the Constitution under consideration. The powers conferred on the new government were perfectly well understood to be conferred, not by any State, or the people of any State, but by the people of the United States. Virginia is more explicit, perhaps, in this particular, than any other State. Her convention, assembled to ratify the Constitution, "in the name and behalf of the people of Virginia, declare and make known, that the powers granted under the Constitution, *being derived from the people of the United States*, may be resumed by them whenever the same shall be perverted to their injury or oppression."

Is this language which describes the formation of a compact between States? or language describing the grant of powers to a new government, by the whole people of the United States?

Among all the other ratifications, there is not one which speaks of the Constitution as a compact between States. Those of Massachusetts and New Hampshire express the transaction, in my opinion, with sufficient accuracy. They recognize the Divine goodness "in affording THE PEOPLE OF THE UNITED STATES an opportunity of entering into an explicit and solemn compact with each other, *by assenting to and ratifying a new Constitution.*" You will observe, Sir, that it is the PEOPLE, and not the States, who have entered into this compact; and it is the PEOPLE of all the United States These conventions, by this form

of expression, meant merely to say, that the people of the United States had, by the blessing of Providence, enjoyed the opportunity of establishing a new Constitution, *founded in the consent of the people.* This consent of the people has been called, by European writers, the *social compact;* and, in conformity to this common mode of expression, these conventions speak of that assent, on which the new Constitution was to rest, as an explicit and solemn compact, not which the States had entered into with each other, but which the *people* of the United States had entered into.

Finally, Sir, how can any man get over the words of the Constitution itself? — "WE, THE PEOPLE OF THE UNITED STATES, DO ORDAIN AND ESTABLISH THIS CONSTITUTION." These words must cease to be a part of the Constitution, they must be obliterated from the parchment on which they are written, before any human ingenuity or human argument can remove the popular basis on which that Constitution rests, and turn the instrument into a mere compact between sovereign States.

The second proposition, Sir, which I propose to maintain, is, that no State authority can dissolve the relations subsisting between the government of the United States and individuals; that nothing can dissolve these relations but revolution: and that, therefore, there can be no such thing as *secession* without revolution. All this follows, as it seems to me, as a just consequence, if it be first proved that the Constitution of the United States is a government proper, owing protection to individuals, and entitled to their obedience.

The people, Sir, in every State, live under two governments. They owe obedience to both. These governments, though distinct, are not adverse. Each has its separate sphere, and its peculiar powers and duties. It is not a contest between two sovereigns for the same power, like the wars of the rival houses in England; nor is it a dispute between a government *de facto* and a government *de jure.* It is the case of a division of powers between two governments, made by the people, to whom both are responsible. Neither can dispense with the duty which individuals owe to the other; neither can call itself master of the other: the people are masters of both. This division of power, it is true, is in a great measure unknown in Europe. It

is the peculiar system of America; and, though new and singular, it is not incomprehensible. The State constitutions are established by the people of the States. This Constitution is established by the people of all the States. How, then, can a State secede? How can a State undo what the whole people have done? How can she absolve her citizens from their obedience to the laws of the United States? How can she annul their obligations and oaths? How can the members of her legislature renounce their own oaths? Sir, secession, as a revolutionary right, is intelligible; as a right to be proclaimed in the midst of civil commotions, and asserted at the head of armies, I can understand it. But as a practical right, existing under the Constitution, and in conformity with its provisions, it seems to me to be nothing but a plain absurdity; for it supposes resistance to government, under the authority of government itself; it supposes dismemberment, without violating the principles of union; it supposes opposition to law, without crime; it supposes the violation of oaths, without responsibility; it supposes the total overthrow of government, without revolution.

The Constitution, Sir, regards itself as perpetual and immortal. It seeks to establish a union among the people of the States, which shall last through all time. Or, if the common fate of things human must be expected at some period to happen to it, yet that catastrophe is not anticipated.

The instrument contains ample provisions for its amendment, at all times; none for its abandonment, at any time. It declares that new States may come into the Union, but it does not declare that old States may go out. The Union is not a temporary partnership of States. It is the association of the people, under a constitution of government, uniting their power, joining together their highest interests, cementing their present enjoyments, and blending, in one indivisible mass, all their hopes for the future. Whatsoever is steadfast in just political principles; whatsoever is permanent in the structure of human society; whatsoever there is which can derive an enduring character from being founded on deep-laid principles of constitutional liberty and on the broad foundations of the public will, — all these unite to entitle this instrument to be regarded as a permanent constitution of government.

In the next place, Mr. President, I contend that there is a su-

preme law of the land, consisting of the Constitution, acts of Congress passed in pursuance of it, and the public treaties This will not be denied, because such are the very words of the Constitution. But I contend, further, that it rightfully belongs to Congress, and to the courts of the United States, to settle the construction of this supreme law, in doubtful cases. This is denied; and here arises the great practical question, *Who is to construe finally the Constitution of the United States?* We all agree that the Constitution is the supreme law; but who shall interpret that law? In our system of the division of powers between different governments, controversies will necessarily sometimes arise, respecting the extent of the powers of each. Who shall decide these controversies? Does it rest with the general government, in all or any of its departments, to exercise the office of final interpreter? Or may each of the States, as well as the general government, claim this right of ultimate decision? The practical result of this whole debate turns on this point. The gentleman contends that each State may judge for itself of any alleged violation of the Constitution, and may finally decide for itself, and may execute its own decisions by its own power. All the recent proceedings in South Carolina are founded on this claim of right. Her convention has pronounced the revenue laws of the United States unconstitutional; and this decision she does not allow any authority of the United States to overrule or reverse. Of course she rejects the authority of Congress, because the very object of the ordinance is to reverse the decision of Congress; and she rejects, too, the authority of the courts of the United States, because she expressly prohibits all appeal to those courts. It is in order to sustain this asserted right of being her own judge, that she pronounces the Constitution of the United States to be but a compact, to which she is a party, and a sovereign party. If this be established, then the inference is supposed to follow, that, being sovereign, there is no power to control her decision; and her own judgment on her own compact is, and must be, conclusive.

I have already endeavored, Sir, to point out the practical consequences of this doctrine, and to show how utterly inconsistent it is with all ideas of regular government, and how soon its adoption would involve the whole country in revolution and absolute anarchy. I hope it is easy now to show, Sir, that a doc-

trine bringing such consequences with it is not well founded that it has nothing to stand on but theory and assumption; and that it is refuted by plain and express constitutional provisions. I think the government of the United States does possess, in its appropriate departments, the authority of final decision on questions of disputed power. I think it possesses this authority, both by necessary implication and by express grant.

It will not be denied, Sir, that this authority naturally belongs to all governments. They all exercise it from necessity, and as a consequence of the exercise of other powers. The State governments themselves possess it, except in that class of questions which may arise between them and the general government, and in regard to which they have surrendered it, as well by the nature of the case as by clear constitutional provisions. In other and ordinary cases, whether a particular law be in conformity to the constitution of the State is a question which the State legislature or the State judiciary must determine. We all know that these questions arise daily in the State governments, and are decided by those governments; and I know no government which does not exercise a similar power.

Upon general principles, then, the government of the United States possesses this authority; and this would hardly be denied were it not that there are other governments. But since there are State governments, and since these, like other governments, ordinarily construe their own powers, if the government of the United States construes its own powers also, which construction is to prevail in the case of opposite constructions? And again, as in the case now actually before us, the State governments may undertake, not only to construe their own powers, but to decide directly on the extent of the powers of Congress. Congress has passed a law as being within its just powers; South Carolina denies that this law is within its just powers, and insists that she has the right so to decide this point, and that her decision is final. How are these questions to be settled?

In my opinion, Sir, even if the Constitution of the United States had made no express provision for such cases, it would yet be difficult to maintain, that, in a Constitution existing over four-and-twenty States, with equal authority over all, *one* could claim a right of construing it for the whole. This would seem a manifest impropriety; indeed, an absurdity. If the Constitu-

tion is a government existing over all the States, though with limited powers, it necessarily follows that, to the extent of those powers, it must be supreme. If it be not superior to the authority of a particular State, it is not a national government. But as it is a government, as it has a legislative power of its own, and a judicial power coextensive with the legislative, the inference is irresistible that this government, thus created *by* the whole and *for* the whole, must have an authority superior to that of the particular government of any one part. Congress is the legislature of all the people of the United States; the judiciary of the general government is the judiciary of all the people of the United States. To hold, therefore, that this legislature and this judiciary are subordinate in authority to the legislature and judiciary of a single State, is doing violence to all common sense, and overturning all established principles. Congress must judge of the extent of its own powers so often as it is called on to exercise them, or it cannot act at all; and it must also act independent of State control, or it cannot act at all.

The right of State interposition strikes at the very foundation of the legislative power of Congress. It possesses no effective legislative power, if such right of State interposition exists; because it can pass no law not subject to abrogation. It cannot make laws for the Union, if any part of the Union may pronounce its enactments void and of no effect. Its forms of legislation would be an idle ceremony, if, after all, any one of four-and-twenty States might bid defiance to its authority. Without express provision in the Constitution, therefore, Sir, this whole question is necessarily decided by those provisions which create a legislative power and a judicial power. If these exist in a government intended for the whole, the inevitable consequence is, that the laws of this legislative power and the decisions of this judicial power must be binding on and over the whole. No man can form the conception of a government existing over four-and-twenty States, with a regular legislative and judicial power, and of the existence at the same time of an authority, residing elsewhere, to resist, at pleasure or discretion, the enactments and the decisions of such a government. I maintain, therefore, Sir, that, from the nature of the case, and as an inference wholly unavoidable, the acts of Congress and the decisions of the national courts must be of higher authority than State

laws and State decisions. If this be not so, there is, there can be, no general government.

But, Mr. President, the Constitution has not left this cardinal point without full and explicit provisions. First, as to the authority of Congress. Having enumerated the specific powers conferred on Congress, the Constitution adds, as a distinct and substantive clause, the following, viz.: "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof." If this means any thing, it means that Congress may judge of the true extent and just interpretation of the specific powers granted to it, and may judge also of what is necessary and proper for executing those powers. If Congress is to judge of what is necessary for the execution of its powers, it must, of necessity, judge of the extent and interpretation of those powers.

And in regard, Sir, to the judiciary, the Constitution is still more express and emphatic. It declares that the judicial power shall extend to all *cases* in law or equity arising under the Constitution, laws of the United States, and treaties; that there shall be *one* Supreme Court, and that this Supreme Court shall have appellate jurisdiction of all these cases, subject to such exceptions as Congress may make. It is impossible to escape from the generality of these words. If a case arises under the Constitution, that is, if a case arises depending on the construction of the Constitution, the judicial power of the United States extends to it. It reaches *the case, the question;* it attaches the power of the national judicature to the *case* itself, in whatever court it may arise or exist; and in this *case* the Supreme Court has appellate jurisdiction over all courts whatever. No language could provide with more effect and precision than is here done, for subjecting constitutional questions to the ultimate decision of the Supreme Court. And, Sir, this is exactly what the Convention found it necessary to provide for, and intended to provide for. It is, too, exactly what the people were universally told was done when they adopted the Constitution. One of the first resolutions adopted by the Convention was in these words, viz.: "That the jurisdiction of the national judiciary shall extend to cases which respect *the collection of the national reve-*

nue, and questions which involve the national peace and harmony." Now, Sir, this either had no sensible meaning at all, or else it meant that the jurisdiction of the national judiciary should extend to these questions, *with a paramount authority.* It is not to be supposed that the Convention intended that the power of the national judiciary should extend to these questions, and that the power of the judicatures of the States should also extend to them, *with equal power of final decision.* This would be to defeat the whole object of the provision. There were thirteen judicatures already in existence. The evil complained of, or the danger to be guarded against, was contradiction and repugnance in the decisions of these judicatures. If the framers of the Constitution meant to create a fourteenth, and yet not to give it power to revise and control the decisions of the existing thirteen, then they only intended to augment the existing evil and the apprehended danger by increasing still further the chances of discordant judgments. Why, Sir, has it become a settled axiom in politics that every government must have a judicial power coextensive with its legislative power? Certainly, there is only this reason, namely, that the laws may receive a uniform interpretation and a uniform execution. This object cannot be otherwise attained. A statute is what it is judicially interpreted to be; and if it be construed one way in New Hampshire, and another way in Georgia, there is no uniform law. One supreme court, with appellate and final jurisdiction, is the natural and only adequate means, in any government, to secure this uniformity. The Convention saw all this clearly; and the resolution which I have quoted, never afterwards rescinded, passed through various modifications, till it finally received the form which the article now bears in the Constitution.

It is undeniably true, then, that the framers of the Constitution intended to create a national judicial power, which should be paramount on national subjects. And after the Constitution was framed, and while the whole country was engaged in discussing its merits, one of its most distinguished advocates, Mr Madison, told the people that it *was true, that, in controversies relating to the boundary between the two jurisdictions, the tribunal which is ultimately to decide is to be established under the general government.* Mr. Martin, who had been a member of the Convention, asserted the same thing to the legislature of Marv-

land, and urged it as a reason for rejecting the Constitution. Mr. Pinckney, himself also a leading member of the Convention, declared it to the people of South Carolina. Everywhere it was admitted, by friends and foes, that this power was in the Constitution. By some it was thought dangerous, by most it was thought necessary; but by all it was agreed to be a power actually contained in the instrument. The Convention saw the absolute necessity of some control in the national government over State laws. Different modes of establishing this control were suggested and considered. At one time, it was proposed that the laws of the States should, from time to time, be laid before Congress, and that Congress should possess a negative over them. But this was thought inexpedient and inadmissible; and in its place, and expressly as a substitute for it, the existing provision was introduced; that is to say, a provision by which the federal courts should have authority to overrule such State laws as might be in manifest contravention of the Constitution. The writers of the Federalist, in explaining the Constitution, while it was yet pending before the people, and still unadopted, give this account of the matter in terms, and assign this reason for the article as it now stands. By this provision Congress escaped the necessity of any revision of State laws, left the whole sphere of State legislation quite untouched, and yet obtained a security against any infringement of the constitutional power of the general government. Indeed, Sir, allow me to ask again, if the national judiciary was not to exercise a power of revision on constitutional questions over the judicatures of the States, why was any national judicature erected at all? Can any man give a sensible reason for having a judicial power in this government, unless it be for the sake of maintaining a uniformity of decision on questions arising under the Constitution and laws of Congress, and insuring its execution? And does not this very idea of uniformity necessarily imply that the construction given by the national courts is to be the prevailing construction? How else, Sir, is it possible that uniformity can be preserved?

Gentlemen appear to me, Sir, to look at but one side of the question. They regard only the supposed danger of trusting a government with the interpretation of its own powers. But will they view the question in its other aspect? Will they show

us how it is possible for a government to get along with four-and-twenty interpreters of its laws and powers? Gentlemen argue, too, as if, in these cases, the State would be always right, and the general government always wrong. But suppose the reverse; suppose the State wrong (and, since they differ, some of them must be wrong); are the most important and essential operations of the government to be embarrassed and arrested, because one State holds the contrary opinion? Mr. President, every argument which refers the constitutionality of acts of Congress to State decision appeals from the majority to the minority; it appeals from the common interest to a particular interest; from the counsels of all to the counsel of one; and endeavors to supersede the judgment of the whole by the judgment of a part.

I think it is clear, Sir, that the Constitution, by express provision, by definite and unequivocal words, as well as by necessary implication, has constituted the Supreme Court of the United States the appellate tribunal in all cases of a constitutional nature which assume the shape of a suit, in law or equity. And I think I cannot do better than to leave this part of the subject by reading the remarks made upon it in the convention of Connecticut, by Mr. Ellsworth; a gentleman, Sir, who has left behind him, on the records of the government of his country, proofs of the clearest intelligence and of the deepest sagacity, as well as of the utmost purity and integrity of character. "This Constitution," says he, "defines the extent of the powers of the general government. If the general legislature should, at any time, overleap their limits, the judicial department is a constitutional check. If the United States go beyond their powers, if they make a law which the Constitution does not authorize, it is void; and the judiciary power, the national judges, who, to secure their impartiality, are to be made independent, will declare it to be void. On the other hand, if the States go beyond their limits, if they make a law which is a usurpation upon the general government, the law is void; and upright, independent judges will declare it to be so." Nor did this remain merely matter of private opinion. In the very first session of the first Congress, with all these well-known objects, both of the Convention and the people, full and fresh in his mind, Mr. Ellsworth, as is generally understood, reported the bill for

the organization of the judicial department, and in that bill made provision for the exercise of this appellate power of the Supreme Court, in all the proper cases, in whatsoever court arising; and this appellate power has now been exercised for more than forty years, without interruption, and without doubt.

As to the cases, Sir, which do not come before the courts, those political questions which terminate with the enactments of Congress, it is of necessity that these should be ultimately decided by Congress itself. Like other legislatures, it must be trusted with this power. The members of Congress are chosen by the people, and they are answerable to the people; like other public agents, they are bound by oath to support the Constitution. These are the securities that they will not violate their duty, nor transcend their powers. They are the same securities that prevail in other popular governments; nor is it easy to see how grants of power can be more safely guarded, without rendering them nugatory. If the case cannot come before the courts, and if Congress be not trusted with its decision, who shall decide it? The gentleman says, each State is to decide it for herself. If so, then, as I have already urged, what is law in one State is not law in another. Or, if the resistance of one State compels an entire repeal of the law, then a minority, and that a small one, governs the whole country.

Sir, those who espouse the doctrines of nullification reject, as it seems to me, the first great principle of all republican liberty; that is, that the majority *must* govern. In matters of common concern, the judgment of a majority *must* stand as the judgment of the whole. This is a law imposed on us by the absolute necessity of the case; and if we do not act upon it, there is no possibility of maintaining any government but despotism. We hear loud and repeated denunciations against what is called *majority government.* It is declared, with much warmth, that a majority government cannot be maintained in the United States. What, then, do gentlemen wish? Do they wish to establish a *minority* government? Do they wish to subject the will of the many to the will of the few? The honorable gentleman from South Carolina has spoken of absolute majorities and majorities concurrent; language wholly unknown to our Constitution, and to which it is not easy to affix definite

ideas. As far as I understand it, it would teach us that the absolute majority may be found in Congress, but the majority concurrent must be looked for in the States; that is to say, Sir, stripping the matter of this novelty of phrase, that the dissent of one or more States, as States, renders void the decision of a majority of Congress, so far as that State is concerned. And so this doctrine, running but a short career, like other dogmas of the day, terminates in nullification.

If this vehement invective against *majorities* meant no more than that, in the construction of government, it is wise to provide checks and balances, so that there should be various limitations on the power of the mere majority, it would only mean what the Constitution of the United States has already abundantly provided. It is full of such checks and balances. In its very organization, it adopts a broad and most effective principle in restraint of the power of mere majorities. A majority of the people elects the House of Representatives, but it does not elect the Senate. The Senate is elected by the States, each State having, in this respect, an equal power. No law, therefore, can pass, without the assent of the representatives of the people, and a majority of the representatives of the States also. A majority of the representatives of the people must concur, and a majority of the States must concur, in every act of Congres; and the President is elected on a plan compounded of both these principles. But having composed one house of representatives chosen by the people in each State, according to their numbers, and the other of an equal number of members from every State, whether larger or smaller, the Constitution gives to majorities in these houses thus constituted the full and entire power of passing laws, subject always to the constitutional restrictions and to the approval of the President. To subject them to any other power is clear usurpation. The majority of one house may be controlled by the majority of the other; and both may be restrained by the President's negative. These are checks and balances provided by the Constitution, existing in the government itself, and wisely intended to secure deliberation and caution in legislative proceedings. But to resist the will of the majority in both houses, thus constitutionally exercised; to insist on the lawfulness of interposition by an extraneous power; to claim the right of defeating the will of Congress,

by setting up against it the will of a single State, — is neither more nor less, as it strikes me, than a plain attempt to overthrow the government. The constituted authorities of the United States are no longer a government, if they be not masters of their own will; they are no longer a government, if an external power may arrest their proceedings; they are no longer a government, if acts passed by both houses, and approved by the President, may be nullified by State vetoes or State ordinances. Does any one suppose it could make any difference, as to the binding authority of an act of Congress, and of the duty of a State to respect it, whether it passed by a mere majority of both houses, or by three fourths of each, or the unanimous vote of each? Within the limits and restrictions of the Constitution, the government of the United States, like all other popular governments, acts by majorities. It can act no otherwise. Whoever, therefore, denounces the government of majorities, denounces the government of his own country, and denounces all free governments. And whoever would restrain these majorities, while acting within their constitutional limits, by an external power, whatever he may intend, asserts principles which, if adopted, can lead to nothing else than the destruction of the government itself.

Does not the gentleman perceive, Sir, how his argument against majorities might here be retorted upon him? Does he not see how cogently he might be asked, whether it be the character of nullification to practise what it preaches? Look to South Carolina, at the present moment. How far are the rights of minorities there respected? I confess, Sir, I have not known, in peaceable times, the power of the majority carried with a higher hand, or upheld with more relentless disregard of the rights, feelings, and principles of the minority; — a minority embracing, as the gentleman himself will admit, a large portion of the worth and respectability of the State; a minority comprehending in its numbers men who have been associated with him, and with us, in these halls of legislation; men who have served their country at home and honored it abroad; men who would cheerfully lay down their lives for their native State, in any cause which they could regard as the cause of honor and duty; men above fear, and above reproach; whose deepest grief and distress spring from the conviction, that the present proceed-

ings of the State must ultimately reflect discredit upon her. How is this minority, how are these men, regarded? They are enthralled and disfranchised by ordinances and acts of legislation; subjected to tests and oaths, incompatible, as they conscientiously think, with oaths already taken, and obligations already assumed, they are proscribed and denounced, as recreants to duty and patriotism, and slaves to a foreign power. Both the spirit which pursues them, and the positive measures which emanate from that spirit, are harsh and proscriptive beyond all precedent within my knowledge, except in periods of professed revolution.

It is not, Sir, one would think, for those who approve these proceedings to complain of the power of majorities.

Mr. President, all popular governments rest on two principles, or two assumptions: —

First, That there is so far a common interest among those over whom the government extends, as that it may provide for the defence, protection, and good government of the whole, without injustice or oppression to parts; and

Secondly, That the representatives of the people, and especially the people themselves, are secure against general corruption, and may be trusted, therefore, with the exercise of power.

Whoever argues against these principles argues against the practicability of all free governments. And whoever admits these, must admit, or cannot deny, that power is as safe in the hands of Congress as in those of other representative bodies. Congress is not irresponsible. Its members are agents of the people, elected by them, answerable to them, and liable to be displaced or superseded, at their pleasure; and they possess as fair a claim to the confidence of the people, while they continue to deserve it, as any other public political agents.

If, then, Sir, the manifest intention of the Convention, and the contemporary admission of both friends and foes, prove any thing; if the plain text of the instrument itself, as well as the necessary implication from other provisions, prove any thing; if the early legislation of Congress, the course of judicial decisions, acquiesced in by all the States for forty years, prove any thing, — then it is proved that there is a supreme law, and a final interpreter.

My fourth and last proposition, Mr. President, was, that any

attempt by a State to abrogate or nullify acts of Congress is a usurpation on the powers of the general government and on the equal rights of other States, a violation of the Constitution, and a proceeding essentially revolutionary. This is undoubtedly true, if the preceding propositions be regarded as proved. If the government of the United States be trusted with the duty, in any department, of declaring the extent of its own powers, then a State ordinance, or act of legislation, authorizing resistance to an act of Congress, on the alleged ground of its unconstitutionality, is manifestly a usurpation upon its powers. If the States have equal rights in matters concerning the whole, then for one State to set up her judgment against the judgment of the rest, and to insist on executing that judgment by force, is also a manifest usurpation on the rights of other States. If the Constitution of the United States be a government proper, with authority to pass laws, and to give them a uniform interpretation and execution, then the interposition of a State, to enforce her own construction, and to resist, as to herself, that law which binds the other States, is a violation of the Constitution.

If that be revolutionary which arrests the legislative, executive, and judicial power of government, dispenses with existing oaths and obligations of obedience, and elevates another power to supreme dominion, then nullification is revolutionary. Or if that be revolutionary the natural tendency and practical effect of which are to break the Union into fragments, to sever all connection among the people of the respective States, and to prostrate this general government in the dust, then nullification is revolutionary.

Nullification, Sir, is as distinctly revolutionary as secession; but I cannot say that the revolution which it seeks is one of so respectable a character. Secession would, it is true, abandon the Constitution altogether; but then it would profess to abandon it. Whatever other inconsistencies it might run into, one, at least, it would avoid. It would not belong to a government, while it rejected its authority. It would not repel the burden, and continue to enjoy the benefits. It would not aid in passing laws which others are to obey, and yet reject their authority as to itself. It would not undertake to reconcile obedience to public authority with an asserted right of command over that same

authority. It would not be in the government, and above the government, at the same time. But though secession may be a more respectable mode of attaining the object than nullification, it is not more truly revolutionary. Each, and both, resist the constitutional authorities; each, and both, would sever the Union, and subvert the government.

Mr. President, having detained the Senate so long already, I will not now examine at length the ordinance and laws of South Carolina. These papers are well drawn for their purpose. Their authors understood their own objects. They are called a peaceable remedy, and we have been told that South Carolina, after all, intends nothing but a lawsuit. A very few words, Sir, will show the nature of this peaceable remedy, and of the lawsuit which South Carolina contemplates.

In the first place, the ordinance declares the law of last July, and all other laws of the United States laying duties, to be absolutely null and void, and makes it unlawful for the constituted authorities of the United States to enforce the payment of such duties. It is therefore, Sir, an indictable offence, at this moment, in South Carolina, for any person to be concerned in collecting revenue under the laws of the United States. It being declared, by what is considered a fundamental law of the State, unlawful to collect these duties, an indictment lies, of course, against any one concerned in such collection; and he is, on general principles, liable to be punished by fine and imprisonment. The terms, it is true, are, that it is unlawful "to enforce the payment of duties"; but every custom-house officer enforces payment while he detains the goods in order to obtain such payment. The ordinanee, therefore, reaches every body concerned in the collection of the duties.

This is the first step in the prosecution of the peaceable remedy. The second is more decisive. By the act commonly called the *replevin* law, any person, whose goods are seized or detained by the collector for the payment of duties, may sue out a writ of replevin, and, by virtue of that writ, the goods are to be restored to him. A writ of replevin is a writ which the sheriff is bound to execute, and for the execution of which he is bound to employ force, if necessary. He may call out the *posse*, and must do so, if resistance be made. This *posse* may be armed or unarmed. It may come forth with military array,

and under the lead of military men. Whatever number of troops may be assembled in Charleston, they may be summoned, with the governor, or commander-in-chief, at their head, to come in aid of the sheriff. It is evident, then, Sir, that the whole military power of the State is to be employed, if necessary, in dispossessing the custom-house officers, and in seizing and holding the goods, without paying the duties. This is the second step in the peaceable remedy.

Sir, whatever pretences may be set up to the contrary, this is the direct application of force, and of military force. It is unlawful, in itself, to replevy goods in the custody of the collectors. But this unlawful act is to be done, and it is to be done by power. Here is a plain interposition, by physical force, to resist the laws of the Union. The legal mode of collecting duties is to detain the goods till such duties are paid or secured. But force comes, and overpowers the collector and his assistants, and takes away the goods, leaving the duties unpaid. There cannot be a clearer case of forcible resistance to law. And it is provided that the goods thus seized shall be held against any attempt to retake them, by the same force which ized them.

Having thus dispossessed the officers of the government of the goods, without payment of duties, and seized and secured them by the strong arm of the State, only one thing more remains to be done, and that is, to cut off all possibility of legal redress; and that, too, is accomplished, or thought to be accomplished. The ordinance declares, *that all judicial proceedings, founded on the revenue laws* (including, of course, proceedings in the courts of the United States), *shall be null and void.* This nullifies the judicial power of the United States. Then comes the test-oath act. This requires all State judges and jurors in the State courts to swear that they will execute the ordinance, and all acts of the legislature passed in pursuance thereof. The ordinance declares, that no appeal shall be allowed from the decision of the State courts to the Supreme Court of the United States; and the replevin act makes it an indictable offence for any clerk to furnish a copy of the record, for the purpose of such appeal.

The two principal provisions on which South Carolina relies, to resist the laws of the United States, and nullify the authority of this government, are, therefore, these: —

1. A forcible seizure of goods, before duties are paid or secured, by the power of the State, civil and military.

2. The taking away, by the most effectual means in her power, of all legal redress in the courts of the United States; the confining of judicial proceedings to her own State tribunals; and the compelling of her judges and jurors of these her own courts to take an oath, beforehand, that they will decide all cases according to the ordinance, and the acts passed under it; that is, that they will decide the cause one way. They do not swear to *try* it, on its own merits; they only swear to *decide* it as nullification requires.

The character, Sir, of these provisions defies comment. Their object is as plain as their means are extraordinary. They propose direct resistance, by the whole power of the State, to laws of Congress, and cut off, by methods deemed adequate, any redress by legal and judicial authority. They arrest legislation, defy the executive, and banish the judicial power of this government. They authorize and command acts to be done and done by force, both of numbers and of arms, which. if done, and done by force, are clearly acts of rebellion and treason.

Such, Sir, are the laws of South Carolina: such, Sir, is the peaceable remedy of nullification. Has not nullification reached, Sir, even thus early, that point of direct and forcible resistance to law to which I intimated, three years ago, it plainly tended?

And now, Mr. President, what is the reason for passing laws like these? What are the oppressions experienced under the Union, calling for measures which thus threaten to sever and destroy it? What invasions of public liberty, what ruin to private happiness, what long list of rights violated, or wrongs unredressed, is to justify to the country, to posterity, and to the world, this assault upon the free Constitution of the United States, this great and glorious work of our fathers? At this very moment, Sir, the whole land smiles in peace, and rejoices in plenty. A general and a high prosperity pervades the country; and, judging by the common standard, by increase of population and wealth, or judging by the opinions of that portion of her people not embarked in these dangerous and desperate measures, this prosperity overspreads South Carolina herself.

Thus happy at home, our country, at the same time, holds high the character of her institutions, her power, her rapid growth, and her future destiny, in the eyes of all foreign states. One danger only creates hesitation; one doubt only exists, to darken the otherwise unclouded brightness of that aspect which she exhibits to the view and to the admiration of the world. Need I say, that that doubt respects the permanency of our Union? and need I say, that that doubt is now caused, more than any thing else, by these very proceedings of South Carolina? Sir, all Europe is, at this moment, beholding us, and looking for the issue of this controversy; those who hate free institutions, with malignant hope; those who love them, with deep anxiety and shivering fear.

The cause, then, Sir, the cause! Let the world know the cause which has thus induced one State of the Union to bid defiance to the power of the whole, and openly to talk of secession. Sir, the world will scarcely believe that this whole controversy, and all the desperate measures which its support requires, have no other foundation than a difference of opinion upon a provision of the Constitution, between a majority of the people of South Carolina, on one side, and a vast majority of the whole people of the United States, on the other. It will not credit the fact, it will not admit the possibility, that, in an enlightened age, in a free, popular republic, under a constitution where the people govern, as they must always govern under such systems, by majorities, at a time of unprecedented prosperity, without practical oppression, without evils such as may not only be pretended, but felt and experienced, — evils not slight or temporary, but deep, permanent, and intolerable, — a single State should rush into conflict with all the rest, attempt to put down the power of the Union by her own laws, and to support those laws by her military power, and thus break up and destroy the world's last hope. And well the world may be incredulous. We, who see and hear it, can ourselves hardly yet believe it. Even after all that had preceded it, this ordinance struck the country with amazement. It was incredible and inconceivable that South Carolina should plunge headlong into resistance to the laws on a matter of opinion, and on a question in which the preponderance of opinion, both of the present day and of all past time, was so overwhelmingly against her The ordinance declares

that Congress has exceeded its just power by laying duties on imports, intended for the protection of manufactures. This is the opinion of South Carolina; and on the strength of that opinion she nullifies the laws. Yet has the rest of the country no right to its opinion also? Is one State to sit sole arbitress? She maintains that those laws are plain, deliberate, and palpable violations of the Constitution; that she has a sovereign right to decide this matter; and that, having so decided, she is authorized to resist their execution by her own sovereign power; and she declares that she will resist it, though such resistance should shatter the Union into atoms.

Mr. President, I do not intend to discuss the propriety of these laws at large; but I will ask, How are they shown to be thus plainly and palpably unconstitutional? Have they no countenance at all in the Constitution itself? Are they quite new in the history of the government? Are they a sudden and violent usurpation on the rights of the States? Sir, what will the civilized world say, what will posterity say, when they learn that similar laws have existed from the very foundation of the government, that for thirty years the power was never questioned, and that no State in the Union has more freely and unequivocally admitted it than South Carolina herself?

To lay and collect duties and imposts is an *express power* granted by the Constitution to Congress. It is, also, an *exclusive power;* for the Constitution as expressly prohibits all the States from exercising it themselves. This express and exclusive power is unlimited in the terms of the grant, but is attended with two specific restrictions: first, that all duties and imposts shall be equal in all the States; second, that no duties shall be laid on exports. The power, then, being granted, and being attended with these two restrictions, and no more, who is to impose a third restriction on the general words of the grant? If the power to lay duties, as known among all other nations, and as known in all our history, and as it was perfectly understood when the Constitution was adopted, includes a right of discriminating while exercising the power, and of laying some duties heavier and some lighter, for the sake of encouraging our own domestic products, what authority is there for giving to the words used in the Constitution a new, narrow, and unusual meaning? All the limitations which the Constitution intended,

it has expressed; and what it has left unrestricted is as much a part of its will as the restraints which it has imposed.

But these laws, it is said, are unconstitutional on account of the *motive*. How, Sir, can a law be examined on any such ground? How is the motive to be ascertained? One house, or one member, may have one motive; the other house, or another member, another. One motive may operate to-day, and another to-morrow. Upon any such mode of reasoning as this, one law might be unconstitutional now, and another law, in exactly the same words, perfectly constitutional next year. Besides, articles may not only be taxed for the purpose of protecting home products, but other articles may be left free, for the same purpose and with the same motive. A law, therefore, would become unconstitutional from what it omitted, as well as from what it contained. Mr. President, it is a settled principle, acknowledged in all legislative halls, recognized before all tribunals, sanctioned by the general sense and understanding of mankind, that there can be no inquiry into the motives of those who pass laws, for the purpose of determining on their validity. If the law be within the fair meaning of the words in the grant of the power, its authority must be admitted until it is repealed. This rule, everywhere acknowledged, everywhere admitted, is so universal and so completely without exception, that even an allegation of fraud, in the majority of a legislature, is not allowed as a ground to set aside a law.

But, Sir, is it true that the motive for these laws is such as is stated? I think not. The great object of all these laws is, unquestionably, revenue. If there were no occasion for revenue, the laws would not have been passed; and it is notorious that almost the entire revenue of the country is derived from them. And as yet we have collected none too much revenue. The treasury has not been more reduced for many years than it is at the present moment. All that South Carolina can say is, that, in passing the laws which she now undertakes to nullify, *particular imported articles were taxed, from a regard to the protection of certain articles of domestic manufacture, higher than they would have been had no such regard been entertained.* And she insists that, according to the Constitution, no such discrimination can be allowed; that duties should be laid for revenue, and revenue only; and that it is unlawful to have reference, in any

case, to protection. In other words, she denies the power of DISCRIMINATION. She does not, and cannot, complain of excessive taxation; on the contrary, she professes to be willing to pay any amount for revenue, merely as revenue; and up to the present moment there is no surplus of revenue. Her grievance, then, that plain and palpable violation of the Constitution which she insists has taken place, is simply the exercise of the power of DISCRIMINATION. Now, Sir, is the exercise of this power of discrimination plainly and palpably unconstitutional?

I have already said, the power to lay duties is given by the Constitution in broad and general terms. There is also conferred on Congress the whole power of regulating commerce, in another distinct provision. Is it clear and palpable, Sir, can any man say it is a case beyond doubt, that, under these two powers, Congress may not justly *discriminate*, in laying duties, *for the purpose of countervailing the policy of foreign nations, or of favoring our own home productions?* Sir, what ought to conclude this question for ever, as it would seem to me, is, that the regulation of commerce and the imposition of duties are, in all commercial nations, powers avowedly and constantly exercised for this very end. That undeniable truth ought to settle the question; because the Constitution ought to be considered, when it uses well-known language, as using it in its well-known sense. But it is equally undeniable, that it has been, from the very first, fully believed that this power of discrimination was conferred on Congress; and the Constitution was itself recommended, urged upon the people, and enthusiastically insisted on in some of the States, for that very reason. Not that, at that time, the country was extensively engaged in manufactures, especially of the kinds now existing. But the trades and crafts of the seaport towns, the business of the artisans and manual laborers, — those employments, the work in which supplies so great a portion of the daily wants of all classes, — all these looked to the new Constitution as a source of relief from the severe distress which followed the war. It would, Sir, be unpardonable, at so late an hour, to go into details on this point; but the truth is as I have stated. The papers of the day, the resolutions of public meetings, the debates in the conventions, all that we open our eyes upon in the history of the times, prove it.

Sir, the honorable gentleman from South Carolina has re-

ferred to two incidents connected with the proceedings of the Convention at Philadelphia, which he thinks are evidence to show that the power of protecting manufactures by laying duties, and by commercial regulations, was not intended to be given to Congress. The first is, as he says, that a power to protect manufactures was expressly proposed, but not granted. I think, Sir, the gentleman is quite mistaken in relation to this part of the proceedings of the Convention. The whole history of the occurrence to which he alludes is simply this. Towards the conclusion of the Convention, after the provisions of the Constitution had been mainly agreed upon, after the power to lay duties and the power to regulate commerce had both been granted, a long list of propositions was made and referred to the committee, containing various miscellaneous powers, some or all of which it was thought might be properly vested in Congress. Among these was a power to establish a university; to grant charters of incorporation; to regulate stage-coaches on the post-roads; and also the power to which the gentleman refers, and which is expressed in these words: "To establish public institutions, rewards, and immunities, for the promotion of agriculture, commerce, trades, and manufactures." The committee made no report on this or various other propositions in the same list. But the only inference from this omission is, that neither the committee nor the Convention thought it proper to authorize Congress "to establish public institutions, rewards, and immunities," for the promotion of manufactures, and other interests. The Convention supposed it had done enough, — at any rate, it had done all it intended, — when it had given to Congress, in general terms, the power to lay imposts and the power to regulate trade. It is not to be argued, from its omission to give more, that it meant to take back what it had already given. It had given the impost power; it had given the regulation of trade; and it did not deem it necessary to give the further and distinct power of establishing public institutions.

The other fact, Sir, on which the gentleman relies, is the declaration of Mr. Martin to the legislature of Maryland. The gentleman supposes Mr. Martin to have urged against the Constitution, that it did not contain the power of protection. But if the gentleman will look again at what Mr. Martin said, he will find, I think, that what Mr. Martin complained of was, that

the Constitution, by its prohibitions on the States, had taken away from the States themselves the power of protecting their own manufactures by duties on imports. This is undoubtedly true; but I find no expression of Mr. Martin intimating that the Constitution had not conferred on Congress the same power which it had thus taken from the States.

But, Sir, let us go to the first Congress; let us look in upon this and the other house, at the first session of their organization.

We see, in both houses, men distinguished among the framers, friends, and advocates of the Constitution. We see in both, those who had drawn, discussed, and matured the instrument in the Convention, explained and defended it before the people, and were now elected members of Congress, to put the new government into motion, and to carry the powers of the Constitution into beneficial execution. At the head of the government was WASHINGTON himself, who had been President of the Convention; and in his cabinet were others most thoroughly acquainted with the history of the Constitution, and distinguished for the part taken in its discussion. If these persons were not acquainted with the meaning of the Constitution, if they did not understand the work of their own hands, who can understand it, or who shall now interpret it to us?

Sir, the volume which records the proceedings and debates of the first session of the House of Representatives lies before me. I open it, and I find that, having provided for the administration of the necessary oaths, the very first measure proposed for consideration is, the laying of imposts; and in the very first committee of the whole into which the House of Representatives ever resolved itself, on this its earliest subject, and in this its very first debate, the duty of so laying the imposts as to encourage manufactures was advanced and enlarged upon by almost every speaker, and doubted or denied by none. The first gentleman who suggests this as the clear duty of Congress, and as an object necessary to be attended to, is Mr. Fitzsimons, of Pennsylvania; the second, Mr. White, of VIRGINIA; the third, Mr. Tucker, of SOUTH CAROLINA.

But the great leader, Sir, on this occasion, was Mr. Madison. Was *he* likely to know the intentions of the Convention and the people? Was *he* likely to understand the Constitution? At

the second sitting of the committee, Mr. Madison explained his own opinions of the duty of Congress, fully and explicitly. I must not detain you, Sir, with more than a few short extracts from these opinions, but they are such as are clear, intelligible, and decisive. "The States," says he, "that are most advanced in population, and ripe for manufactures, ought to have their particular interest attended to, in some degree. While these States retained the power of making regulations of trade, they had the power to cherish such institutions. By adopting the present Constitution, they have thrown the exercise of this power into other hands; they must have done this with an expectation that those interests would not be neglected here." In another report of the same speech, Mr. Madison is represented as using still stronger language; as saying that, the Constitution having taken this power away from the States and conferred it on Congress, it would be a *fraud* on the States and on the people were Congress to refuse to exercise it.

Mr. Madison argues, Sir, on this early and interesting occasion, very justly and liberally, in favor of the general principles of unrestricted commerce. But he argues, also, with equal force and clearness, for certain important exceptions to these general principles. The first, Sir, respects those manufactures which had been brought forward under encouragement by the State governments. "It would be cruel," says Mr. Madison, "to neglect them, and to divert their industry into other channels; for it is not possible for the hand of man to shift from one employment to another without being injured by the change." Again: "There may be some manufactures which, being once formed, can advance towards perfection without any adventitious aid; while others, for want of the fostering hand of government, will be unable to go on at all. Legislative provision, therefore, will be necessary to collect the proper objects for this purpose; and this will form another exception to my general principle." And again: "The next exception that occurs is one on which great stress is laid by some well-informed men, and this with great plausibility; that each nation should have, within itself, the means of defence, independent of foreign supplies; that, in whatever relates to the operations of war, no State ought to depend upon a precarious supply from any part of the world. There may be some truth in this remark; and therefore it is proper for legislative attention."

In the same debate, Sir, Mr. Burk, from South Carolina, supported a duty on hemp, for the express purpose of encouraging its growth on the strong lands of South Carolina. "Cotton," he said, "was also in contemplation among them, and, if good seed could be procured, he hoped might succeed." Afterwards, Sir, the cotton was obtained, its culture was protected, and it did succeed. Mr. Smith, a very distinguished member from the same State, observed: "It has been said, and justly, that the States which adopted this Constitution expected its administration would be conducted with a favorable hand. The manufacturing States wished the encouragement of manufactures, the maritime States the encouragement of ship-building, and the agricultural States the encouragement of agriculture."

Sir, I will detain the Senate by reading no more extracts from these debates. I have already shown a majority of the members of South Carolina, in this very first session, acknowledging this power of protection, voting for its exercise, and proposing its extension to their own products. Similar propositions came from Virginia; and, indeed, Sir, in the whole debate, at whatever page you open the volume, you find the power admitted, and you find it applied to the protection of particular articles, or not applied, according to the discretion of Congress. No man denied the power, no man doubted it; the only questions were, in regard to the several articles proposed to be taxed, whether they were fit subjects for protection, and what the amount of that protection ought to be. Will gentlemen, Sir, now answer the argument drawn from these proceedings of the first Congress? Will they undertake to deny that that Congress did act on the avowed principle of protection? Or, if they admit it, will they tell us how those who framed the Constitution fell, thus early, into this great mistake about its meaning? Will they tell us how it should happen that they had so soon forgotten their own sentiments and their own purposes? I confess I have seen no answer to this argument, nor any respectable attempt to answer it. And, Sir, how did this debate terminate? What law was passed? There it stands, Sir, among the statutes, the second law in the book. It has a *preamble*, and that preamble expressly recites, that the duties which it imposes are laid "for the support of government, for the discharge of the debts of the United States, and *the encouragement and pro-*

tection of manufactures." Until, Sir, this early legislation, thus coeval with the Constitution itself, thus full and explicit, can be explained away, no man can doubt of the meaning of that instrument, in this respect.

Mr. President, this power of *discrimination*, thus admitted, avowed, and practised upon in the first revenue act, has never been denied or doubted until within a few years past. It was not at all doubted in 1816, when it became necessary to adjust the revenue to a state of peace. On the contrary, the power was then exercised, not without opposition as to its expediency, but, as far as I remember or have understood, without the slightest opposition founded on any supposed want of constitutional authority. Certainly, South Carolina did not doubt it. The tariff of 1816 was introduced, carried through, and established, under the lead of South Carolina. Even the minimum policy is of South Carolina origin. The honorable gentleman himself supported, and ably supported, the tariff of 1816. He has informed us, Sir, that his speech on that occasion was sudden and off-hand, he being called up by the request of a friend. I am sure the gentleman so remembers it, and that it was so; but there is, nevertheless, much method, arrangement, and clear exposition in that extempore speech. It is very able, very, very much to the point, and very decisive. And in another speech, delivered two months earlier, on the proposition to repeal the internal taxes, the honorable gentleman had touched the same subject, and had declared "*that a certain encouragement ought to be extended at least to our woollen and cotton manufactures.*" I do not quote these speeches, Sir, for the purpose of showing that the honorable gentleman has changed his opinion: my object is other and higher. I do it for the sake of saying that that cannot be so plainly and palpably unconstitutional as to warrant resistance to law, nullification, and revolution, which the honorable gentleman and his friends have heretofore agreed to and acted upon without doubt and without hesitation. Sir, it is no answer to say that the tariff of 1816 was a revenue bill. So are they all revenue bills. The point is, and the truth is, that the tariff of 1816, like the rest, *did discriminate;* it did distinguish one article from another; it did lay duties for protection. Look to the case of coarse cottons under the minimum calculation: the duty on these was from sixty to eighty per

cent. Something beside revenue, certainly, was intended in this; and, in fact, the law cut up our whole commerce with India in that article.

It is, Sir, only within a few years that Carolina has denied the constitutionality of these protective laws. The gentleman himself has narrated to us the true history of her proceedings on this point. He says, that, after the passing of the law of 1828, despairing then of being able to abolish the system of protection, political men went forth among the people, and set up the doctrine that the system was unconstitutional. "*And the people*," says the honorable gentleman, "*received the doctrine.*" This, I believe, is true, Sir. The people did then receive the doctrine; they had never entertained it before. Down to that period, the constitutionality of these laws had been no more doubted in South Carolina than elsewhere. And I suspect it is true, Sir, and I deem it a great misfortune, that, to the present moment, a great portion of the people of the State have never yet seen more than one side of the argument. I believe that thousands of honest men are involved in scenes now passing, led away by one-sided views of the question, and following their leaders by the impulses of an unlimited confidence. Depend upon it, Sir, if we can avoid the shock of arms, a day for reconsideration and reflection will come; truth and reason will act with their accustomed force, and the public opinion of South Carolina will be restored to its usual constitutional and patriotic tone.

But, Sir, I hold South Carolina to her ancient, her cool, her uninfluenced, her deliberate opinions. I hold her to her own admissions, nay, to her own claims and pretensions, in 1789, in the first Congress, and to her acknowledgments and avowed sentiments through a long series of succeeding years. I hold her to the principles on which she led Congress to act in 1816; or, if she have changed her own opinions, I claim some respect for those who still retain the same opinions. I say she is precluded from asserting that doctrines, which she has herself so long and so ably sustained, are plain, palpable, and dangerous violations of the Constitution.

Mr. President, if the friends of nullification should be able to propagate their opinions, and give them practical effect, they would, in my judgment, prove themselves the most skilful "ar-

chitects of ruin," the most effectual extinguishers of high-raised expectation, the greatest blasters of human hopes, that any age has produced. They would stand up to proclaim, in tones which would pierce the ears of half the human race, that the last great experiment of representative government had failed. They would send forth sounds, at the hearing of which the doctrine of the divine right of kings would feel, even in its grave, a returning sensation of vitality and resuscitation. Millions of eyes, of those who now feed their inherent love of liberty on the success of the American example, would turn away from beholding our dismemberment, and find no place on earth whereon to rest their gratified sight. Amidst the incantations and orgies of nullification, secession, disunion, and revolution, would be celebrated the funeral rites of constitutional and republican liberty.

But, Sir, if the government do its duty, if it act with firmness and with moderation, these opinions cannot prevail. Be assured, Sir, be assured, that, among the political sentiments of this people, the love of union is still uppermost. They will stand fast by the Constitution, and by those who defend it. I rely on no temporary expedients, on no political combination; but I rely on the true American feeling, the genuine patriotism of the people, and the imperative decision of the public voice. Disorder and confusion, indeed, may arise; scenes of commotion and contest are threatened, and perhaps may come. With my whole heart, I pray for the continuance of the domestic peace and quiet of the country. I desire, most ardently, the restoration of affection and harmony to all its parts. I desire that every citizen of the whole country may look to this government with no other sentiments than those of grateful respect and attachment. But I cannot yield even to kind feelings the cause of the Constitution, the true glory of the country, and the great trust which we hold in our hands for succeeding ages. If the Constitution cannot be maintained without meeting these scenes of commotion and contest, however unwelcome, they must come. We cannot, we must not, we dare not, omit to do that which, in our judgment, the safety of the Union requires. Not regardless of consequences, we must yet meet consequences; seeing the hazards which surround the discharge of public duty, it must yet be discharged. For myself, Sir, I shun no responsibility justly de-

volving on me, here or elsewhere, in attempting to maintain the cause. I am bound to it by indissoluble ties of affection and duty, and I shall cheerfully partake in its fortunes and its fate. I am ready to perform my own appropriate part, whenever and wherever the occasion may call on me, and to take my chance among those upon whom blows may fall first and fall thickest. I shall exert every faculty I possess in aiding to prevent the Constitution from being nullified, destroyed, or impaired; and even should I see it fall, I will still, with a voice feeble, perhaps, but earnest as ever issued from human lips, and with fidelity and zeal which nothing shall extinguish, call on the PEOPLE to come to its rescue.

THE REMOVAL OF THE DEPOSITS.*

THE charter of the Bank of the United States provided that the public moneys should be deposited in the bank, subject to removal by the Secretary of the Treasury, on grounds to be submitted to Congress. In the session of 1832, Congress had passed a resolution, by a very large majority, that the public deposits were safe in the custody of the Bank of the United States. General Jackson, having applied his *veto* to the bill for renewing the charter of the bank, was determined, notwithstanding this expression of the opinion of Congress, that the public deposits should be transferred to an association of selected State banks. The Secretary of the Treasury (Mr. M'Lane), having declined to order the transfer, was appointed Secretary of State, in the expectation that his successor (Mr. Duane) would execute the President's will in that respect. On the 10th of September, 1833, an elaborate paper was read by General Jackson to the Cabinet, announcing his reasons for the removal of the deposits, and appointing the 1st of October as the day when it should take place. On the 21st of September, Mr. Duane made known to the President his intention not to order the removal. He was dismissed from office, and Mr. Taney, the present Chief Justice, appointed in his place, by whom the requisite order for the removal of the public moneys to the State banks was immediately given.

This measure produced a great derangement in the business of the country, and an almost total suspension of the accustomed action of the financial system. Universal distress ensued. Memorials on the subject were addressed to both houses of Congress from the principal cities, and very many of the public bodies, in the United States. These memorials formed the subject of prolonged and animated debate during the session of 1833 – 34.

On the 20th of January, Mr. Webster presented to the Senate a series

* Remarks, on different occasions, on the Removal of the Deposits, and on the subject of a National Bank, delivered in the Senate of the United States, in the course of the session of 1833 – 34

of resolutions adopted at a public meeting in Boston, of a remarkably temperate and argumentative character, in which the prevailing distress was traced mainly to the removal of the deposits, and the restoration of the friendly relations between the government and the Bank of the United States was mentioned as the only measure of relief likely to prove effectual. It was stated in one of the resolutions, that the meeting consisted of persons "of all classes and professions, entertaining various and opposite opinions upon the question of rechartering the existing national bank or of chartering a new one, and that few of them have any pecuniary interest involved in the fate of that institution."

The resolutions having been read, Mr. Webster addressed the Senate as follows: —

Mr. President, — I wish to bear unequivocal and decided testimony to the respectability, intelligence, and disinterestedness of the long list of gentlemen at whose instance this meeting was assembled. The meeting, Sir, was connected with no party purpose whatever. It had an object more sober, more cogent, more interesting to the whole community, than mere party questions. The Senate will perceive in the tone of these resolutions no intent to exaggerate or inflame; no disposition to get up excitement or to spread alarm. I hope the restrained and serious manner, the moderation of temper, and the exemplary candor of these resolutions, in connection with the plain truths which they contain, will give them just weight with the Senate. I assure you, Sir, the members composing this meeting were neither capitalists, nor speculators, nor alarmists. They are merchants, traders, mechanics, artisans, and others engaged in the active business of life. They are of the muscular portion of society; and they desire to lay before Congress an evil which they feel to press sorely on their occupations, their earnings, their labor, and their property; and to express their conscientious conviction of the causes of that evil. If intelligence, if pure intention, if deep and wide-spread connection with business in its various branches, if thorough practical knowledge and experience, if inseparable union between their own prosperity and the prosperity of the whole country, authorize men to speak, and give them a right to be heard, the sentiments of this meeting ought to make an impression. For one, Sir, I entirely concur in all their opinions. I adopt their first fourteen resolutions, without alteration or qualifica-

tion, as setting forth truly the present state of things, stating truly its causes, and pointing to the true remedy.

Mr. President, now that I am speaking, I will use the opportunity to say a few words which I intended to say in the course of the morning, on the coming up of the resolution which now lies on the table; but which are as applicable to this occasion as to that. An opportunity may perhaps hereafter be afforded me of discussing the reasons given by the Secretary for the very important measure adopted by him in removing the deposits But as I know not how near that time may be, I desire, in the mean while, to make my opinions known without reserve on the present state of the country. Without intending to discuss any thing at present, I feel it my duty, nevertheless, to let my sentiments and my convictions be understood.

In the first place, then, Sir, I agree with those who think that there is a severe pressure in the money market, and very serious embarrassment felt in all branches of the national industry. I think this is not local, but general; general, at least, over every part of the country where the cause has yet begun to operate, and sure to become not only general, but universal, as the operation of the cause shall spread. If evidence be wanted, in addition to all that is told us by those who know, the high rate of interest, now at twelve per cent. or higher where it was hardly six last September, the depression of all stocks, some ten, some twenty, some thirty per cent., and the low prices of commodities, are proofs abundantly sufficient to show the existence of the pressure. But, Sir, labor, that most extensive of all interests, American manual labor, feels, or will feel, the shock more sensibly, far more sensibly, than capital, or property of any kind. Public works have stopped, or must stop; great private undertakings, employing many hands, have ceased, and others must cease. A great lowering of the rates of wages, as well as a depreciation of property, is the inevitable consequence of causes now in full operation. Serious embarrassments in all branches of business do certainly exist.

I am of opinion, therefore, that there is undoubtedly a very severe pressure on the community, which Congress ought to relieve, if it can; and that this pressure is not an instance of the ordinary reaction, or the ebbing and flowing, of commercial affairs, but is an extraordinary case, produced by an extraordinary cause.

In the next place, Sir, I agree entirely with the eleventh Boston resolution, as to the causes of this embarrassment. We were in a state of high prosperity, commercial and agricultural. Every branch of business was pushed far, and the credit as well as the capital of the country employed nearly to its utmost limits. In this state of affairs, some degree of over-trading doubtless took place, which, however, if nothing else had occurred, would have been seasonably corrected by the ordinary and necessary operation of things. But on this palmy state of business the late measure of the Secretary fell, and has acted on it with powerful and lamentable effect. I am of opinion, that such a cause is entirely adequate to produce the effect, that it is wholly natural, and that it ought to have been foreseen that it would produce exactly such consequences. Those must have looked at the surface of things only, as it seems to me, who thought otherwise, and who expected that such an operation could be gone through with without producing a very serious shock.

The treasury in a very short time has withdrawn from the bank eight millions of dollars, within a fraction. This call, of course, the bank has been obliged to provide for, and could not provide for without more or less inconvenience to the public. The mere withdrawal of so large a sum from hands actually holding and using it, and the transfer of it, through the bank collecting, and through another bank loaning it, if it can loan it, into other hands, is itself an operation which, if conducted suddenly, must produce considerable inconvenience. And this is all that the Secretary seems to have anticipated. But this is but the smallest part of the whole evil. The great evil arises from the new attitude in which the government places itself towards the bank. Every thing is now in a false position. The government, the Bank of the United States, and the State banks, are all out of place. They are deranged, and separated, and jostling against each other. Instead of amity, reliance, and mutual succor, relations of jealousy, of distrust, of hostility even, are springing up between these parties. All act on the defensive; each looks out for itself; and the public interest is crushed between the upper and the nether millstone. All this should have been foreseen. It is idle to say that these evils might have been prevented by the bank, if it had exerted itself to prevent them. That is a mere matter of opinion: it may be true, or it

may not; but it was the business of those who proposed the removal of the deposits to ask themselves how it was probable the bank would act when they should attack it, assail its credit, and allege the violation by it of its charter; and thus compel it to take an attitude, at least, of stern defence. The community have certainly a right to hold those answerable who have unnecessarily got into this quarrel with the bank, and thereby occasioned the evil, let the conduct of the bank, in the course of the controversy, be what it may.

In my opinion, Sir, the great source of the evil is the shock which the measure has given to *confidence* in the commercial world. The credit of the whole system of the currency of the country seems shaken. The State banks have lost credit and lost confidence. They have suffered vastly more than the Bank of the United States itself, at which the blow was aimed.

The derangement of internal exchanges is one of the most disastrous consequences of the measure. By the origin of its charter, by its unquestioned solidity, by the fact that it was *at home everywhere* and in perfect credit everywhere, the Bank of the United States accomplished the internal exchanges of the country with vast facility, and at a rate of unprecedented cheapness. The State banks can never perform this equally well; for the reason given in the Boston resolutions, they cannot act with the same concert, the same identity of purpose. Look at the prices current, and see the change in the value of the notes of distant banks in the great cities. Look at the depression of the stocks of the State banks, deposit banks, and all. Look at what must happen the moment the Bank of the United States, in its process of winding up, or to meet any other crisis, shall cease to buy domestic bills, especially in the Southern, Southwestern, and Western markets. Can any man doubt what will be the state of exchange when that takes place? Or can any one doubt its necessary effect upon the price of produce? The bank has purchased bills to the amount of sixty millions a year, as appears by documents heretofore laid before the Senate. A great portion of these, no doubt, were purchased in the South and West, against shipments of the great staples of those quarters of the country. Such is the course of trade. The produce of the Southwest and the South is shipped to the North and East for sale, and those who ship it draw bills on

those to whom it is shipped; and these bills are bought and discounted, or cashed by the bank. When the bank shall cease to buy, as it must cease, consequences cannot but be felt much severer even than those now experienced. This is inevitable. But, Sir, I go no farther into particular statements. My opinion, I repeat, is, that the present distress is immediately occasioned, beyond all doubt, by the removal of the deposits; and that just such consequences might have been, and ought to have been, foreseen from that measure, as we do now perceive and feel around us.

Sir, I do not believe, nevertheless, that these consequences were foreseen. With such foresight, the deposits, I think, would not have been touched. The measure has operated more deeply and more widely than was expected. We all may find proof of this in the conversations of every hour. No one, who seeks to acquaint himself with the opinions of men, in and out of Congress, can doubt, that, if the act were now proposed, it would receive very little encouragement or support.

Being of opinion that the removal of the deposits has produced the pressure as its immediate effect, not so much by withdrawing a large sum of money from circulation, as by alarming the confidence of the community, by breaking in on the well-adjusted relations of the government and the bank, I agree again with the Boston resolutions, that the natural remedy is a restoration of the relation in which the bank has heretofore stood to the government. I agree, Sir, that this question ought to be settled, and to be settled soon. And yet, if it be decided that the present state of things shall exist, if it be the determination of Congress to do nothing in order to put an end to the unnatural, distrustful, half-belligerent relation between the government and the bank, I do not look for any great relief to the community, or any early quieting of the public agitation. On the contrary, I expect increased difficulty and increased disquiet.

The public moneys are now out of the Bank of the United States. There is no law regulating their custody or fixing their place. They are at the disposal of the Secretary of the Treasury, to be kept where he pleases, as he pleases, and the places of their custody to be changed as often as he pleases.

I do not think that this is a state of things in which the country is likely to acquiesce.

Mr. President, the restoration of the deposits is a question distinct and by itself. It does not necessarily involve any other question. It stands clear of all controversy and all opinion about rechartering the bank, or creating any new bank. I wish, nevertheless, Sir, to say a few words with a bearing somewhat beyond that question. Being of opinion that the country is not likely to be satisfied with the present state of things, I have looked earnestly for the suggestion of some prospective measure, some system to be adopted as the future policy of the country. Where are the public moneys hereafter to be kept? In what currency is the revenue hereafter to be collected? What is to take the place of the bank in our general system? How are we to preserve a uniform currency, a uniform measure of the value of property and the value of labor, a uniform medium of exchange and of payments? How are we to exercise that salutary control over the national currency which it was the unquestionable purpose of the Constitution to devolve on Congress? These, Sir, appear to me to be the momentous questions before us, and which we cannot long keep out of view. In these questions, every man in the community who either has a dollar, or expects to earn one, has a direct interest.

Now, Sir, I have heard but four suggestions, or opinions, as to what may hereafter be expected or attempted.

The first is, that things will remain as they are, that the bank will be suffered to expire, that no new bank will be created, and the whole subject be left under the control of the executive department.

I have already said, that I do not believe the country will ever acquiesce in this.

The second suggestion is that which was made by the honorable member from Virginia.* That honorable member pledges himself to bring forward a proposition, having for its object to do away with the paper system altogether, and to return to an exclusively metallic currency. I do not think, Sir, that he will find much support in such an undertaking. A mere gold and silver currency, and the entire abolition of paper, are not suited to the times. The idea has something a little too antique, too Spartan, in it; we might as well think of going back to iron at once. If such a result as the gentleman hopes for were even desira-

* Mr. Rives.

ble, I regard its attainment as utterly impracticable and hopeless. I lay that scheme, therefore, out of my contemplation.

There is, then, Sir, the rechartering of the present bank; and, lastly, there is the establishment of a new bank. The first of these received the sanction of the last Congress, but the measure was negatived by the President. The other, the creation of a new bank, has not been brought forward in Congress, but it has excited attention out of doors, and has been proposed in some of the State legislatures. I observe, Sir, that a proposition has been submitted for consideration, by a very intelligent gentleman in the legislature of Massachusetts, recommending the establishment of a new bank, with the following provisions:—

"1. The capital stock to be fifty millions of dollars.

"2. The stockholders of the present United States Bank to be permitted to subscribe an amount equal to the stock they now hold.

"3. The United States to be stockholders to the same extent they now are, and to appoint the same number of directors.

"4. The subscription to the remaining fifteen millions to be distributed to the several States in proportion to federal numbers, or in some other just and equal ratio; the instalments payable either in cash or in funded stock of the State, bearing interest at five per cent.

"5. No branch of the bank to be established in any State, unless by permission of its legislature.

"6. The branches of the bank established in the several States to be liable to taxation by those States, respectively, in the same manner and to the same extent only with their own banks.

"7. Such States as may become subscribers to the stock to have the right of appointing a certain number, not exceeding one third, of the directors in the branch of their own State.

"8. Stock not subscribed for under the foregoing provisions to be open to subscription by individual citizens."

A project not altogether dissimilar has been started in the legislature of Pennsylvania. These proceedings show, at least, a conviction of the necessity of some bank created by Congress. Mr. President, on this subject I have no doubt whatever. I think a national bank proper and necessary. I believe it to be the only practicable remedy for the evils we feel, and the only effectual security against the greater evils which we fear. Not, Sir, that there is any magic in the name of a bank; nor that a national bank works by any miracle or mystery. But, looking

to the state of things actually existing around us, looking to the great number of State banks already created, not less than three hundred and fifty or four hundred, looking to the vast amount of paper issued by those banks, and considering that, in the very nature of things, this paper must be limited and local in its credit and in its circulation, I confess I see nothing but a well-conducted national institution which is likely to afford any guard against excessive paper issues, or which can furnish a sound and uniform currency to every part of the United States. This, Sir, is not only a question of finance, it not only respects the operations of the treasury, but it rises to the character of a high political question. It respects the currency, the actual money, the measure of value of all property and all labor in the United States. If we needed not a dollar of money in the treasury, it would still be our solemn and bounden duty to protect this great interest. It respects the exercise of one of the greatest powers, beyond all doubt, conferred on Congress by the Constitution. And I hardly know any thing less consistent with our public duty and our high trust, nor any thing more likely to disturb the harmonious relations of the States, in all affairs of business and life, than for Congress to abandon all care and control over the currency, and to throw the whole money system of the country into the hands of four-and-twenty State legislatures.

I am, then, Sir, for a bank; and am fully persuaded that to that measure the country must come at last.

The question, then, is between the creation of a new bank, and the rechartering of the present bank, with modifications. I have already referred to the scheme for a new bank, proposed to the legislature of Massachusetts by Mr. White. Between such a new bank as his propositions would create, and a rechartering of the present bank, with modifications, there is no very wide, certainly no irreconcilable difference. We cannot, however, create another bank before March, 1836. This is one reason for preferring a continuance of the present. And, treating the subject as a practical question, and looking to the state of opinion, and to the probability of success in either attempt, I incline to the opinion that the true course of policy is to propose a recharter of the present bank, *with modifications.*

As to what these modifications should be, I would only now

observe, that, while it may well be inferred, from my known sentiments, that I should not myself deem any alterations in the charter beyond those proposed by the bill of 1832 highly essential, yet it is a case in which, I am aware, nothing can be effected for the good of the country without making some approaches to unity of opinion. I think, therefore, that, in the hope of accomplishing an object of so much importance, liberal concessions should be made. I lay out of the case all consideration of any especial claim, or any legal right, of the present stockholders to a renewal of their charter. No such right can be pretended; doubtless none such is pretended. The stockholders must stand like other individuals, and their interest must be regarded so far, and so far only, as may be judged for the public good. Modifications of the present charter should, I think, be proposed, such as may remove all reasonable grounds of jealousy in all quarters, whether in States, in other institutions, or in individuals; such, too, as may tend to reconcile the interests of the great city where the bank is with those of another great city; and, in short, the question should be met with a sincere disposition to accomplish, by united and friendly counsels, a measure which shall allay fears and promote confidence, at the same time that it secures to the country a sound, creditable, uniform currency, and to the government a safe deposit for the public treasure, and an important auxiliary in its financial operations.

I repeat, then, Sir, that I am in favor of renewing the charter of the present bank, *with such alterations as may be expected to meet the general sense of the country.*

And now, Mr. President, to avoid all unfounded inferences, I wish to say, that these suggestions are to be regarded as wholly my own. They are made without the knowledge of the bank, and with no understanding or concert with any of its friends. I have not understood, indeed, that the bank itself proposes to apply, at present, for a renewal of its charter. Whether it does so or not, my suggestions are connected with no such purpose of the bank, nor with any other purpose which it may be supposed to entertain. I take up the subject on public grounds, purely and exclusively.

And, Sir, in order to repel all inferences of another sort, I wish to state, with equal distinctness, that I do not undertake to speak the sentiments of any individual heretofore opposed to the bank,

or belonging to that class of public men who have generally opposed it. I state my own opinions; if others should concur in them, it will be only because they approve them, and will not be the result of any previous concert or understanding whatever.

Finally, Mr. President, having stated my own opinions, I respectfully ask those who propose to continue the discussion now going on, relative to the deposits, to let the country see their plan for the final settlement of the present difficulties. If they are against the bank, and against all banks, *what do they propose?* That the country will not be satisfied with the present state of things, seems to be certain. *What state of things is to succeed it?* To these questions I desire earnestly to call the attention of the Senate and of the country. The occasion is critical, the interests at stake momentous, and, in my judgment, Congress ought not to adjourn till it shall have passed some law suitable to the exigency, and satisfactory to the country.

On the 30th day of January, Mr. Wright, of New York, presented to the Senate sundry resolutions, passed by the legislature of New York, approving the removal of the deposits, and disapproving of any Bank of the United States.

In presenting these resolutions, Mr. Wright, among other observations, expressed his decided hostility to the renewal of the charter of the present bank, or the creation of any other. He said that he would oppose this bank upon the ground of its flagrant violations of the high trusts confided to it, but that his objections were of a still deeper and graver character; that he went against this bank, and against any and every bank to be incorporated by Congress, to be located anywhere within the twenty-four States. He expressed a strong opinion, too, that the existing distress arose from the conduct of the bank in curtailing its loans; and that this curtailment had been made with a view to extort a renewal of its charter from the fears of the people.

As *to what was to be done*, under present circumstances, in order to relieve the public pressure, Mr. Wright said, that, speaking for himself only, he would sustain the executive branch of the government, by all the legal means in his power, in the effort now making to substitute the State banks, instead of the Bank of the United States, as the fiscal agent of the government.

When Mr. Wright had concluded his remarks, Mr. Webster said:—

I cannot consent to let the opportunity pass, without a few observations upon what we have now heard. Sir, the remarks of the honorable member from New York are full of the most portentous import. They are words, not of cheering or consolation, but of ill-boding signification; and, as they spread far and wide, in their progress from the capital through the country, they will carry with them, if I mistake not, gloom, apprehension, and dismay. I consider the declarations which the honorable member has now made, as expressing the settled purpose of the administration on the great question which so much agitates the country.

Here Mr. Wright rose, and said that he had given his opinion as an individual, and that he had no authority to speak for the administration. Mr. Webster continued: —

I perfectly well understand, Sir, all the gentleman's disclaimers and demurrers. He speaks, to be sure, in his own name only; but, from his political connections, his station, and his relations, I know full well that he has not, on this occasion, spoken one word which has not been deliberately weighed and considered by others as well as himself.

He has announced, therefore, to the country, two things clearly and intelligibly: —

First, that the present system (if system it is to be called) is to remain unaltered. The public moneys are to remain, as they now are, in the State banks, and the whole public revenue is hereafter to be collected through the agency of such banks. This is the first point. The gentleman has declared his full and fixed intention to support the administration in this course, and therefore it cannot be doubted that this course has been determined on by the administration. No plan is to be laid before Congress; no system is to be adopted by authority of law. The effect of a law would be to place the public deposits beyond the power of daily change, and beyond the absolute control of the executive. But no such fixed arrangement is to take place. The whole is to be left completely at the pleasure of the Secretary of the Treasury, who may change the public moneys from place to place, and from bank to bank, as often as he pleases.

The second thing now clearly made known, and of which, indeed, there have been many previous intimations, is, Sir, that a

great effort is to be made, or rather an effort already made is to be vigorously renewed and continued, to turn the public complaints against the bank instead of the government, and to persuade the people that all their sufferings arise, not from the act of the administration in removing the public deposits, but from the conduct of the bank since that was done. It is to be asserted here, and will be the topic of declamation everywhere, that, notwithstanding the removal of the deposits, if the bank had not acted wrong, there would have been no pressure or distress on the country. The object, it is evident, will now be to divert public attention from the conduct of the Secretary, and fix it on that of the bank. This is the second thing which is to be learned from the speech of the member from New York.

The honorable member has said that new honors are to be gained by the President, from the act which he is about to accomplish; that he is to bring back legislation to its original limits, and to establish the great truth, that Congress has no power to create a national bank. I shall not stop to argue whether Congress can charter a bank in this little District, which shall operate everywhere throughout the Union, and yet cannot establish one in any of the States. The gentleman seemed to leave that point, as if Congress had such a power. But all must see that, if Congress cannot establish a bank in one of the States, with branches in the rest, it would be mere evasion to say that it might establish a bank here, with branches in the several States.

Congress, it is alleged, has not the constitutional power to create a bank. Sir, on what does this power rest, in the opinion of those of us who maintain it? Simply on this; that it is a power which is necessary and proper for the purpose of carrying other powers into effect. A fiscal agent, an auxiliary to the treasury, a machine, a something, is necessary for the purposes of the government; and Congress, under the general authority conferred upon it, can create that fiscal agent, that machine, that something, and call it a bank. This is what I contend for; but this the gentleman denies, and says that it is not competent to Congress to create a fiscal agent for itself, but that it may employ as such agents institutions not created by itself, but by others, and which are beyond the control of Congress. It is admitted that the agent is necessary, and that Congress has the power to employ it; but it is insisted, nevertheless, that Con-

gress cannot create it, but must take such as is or may be already created. I do not agree to the soundness of this reasoning. Suppose there were no State banks; as the gentleman admits the necessity of a bank in that case, how can he hold such discordant opinions as to assert that Congress could not, in that case, create one? The agency of a bank is necessary; and, because it is necessary, we may use it, provided others will make a bank for us; but if they will not, we cannot make one for ourselves, however necessary! This is the proposition.

For myself, I must confess that I am too obtuse to see the distinction between the power of creating a bank for the use of the government, and the power of taking into its use banks already created. To make and to use, or to make and to hire, must require the same power in this case, and be either both constitutional or both equally unconstitutional; except that every consideration of propriety and expediency and convenience requires that Congress should make a bank which will suit its own purposes, answer its own ends, and be subject to its own control, rather than use other banks, which were not created for any such purpose, are not suited to it, and over which Congress can exercise no supervision.

On one or two other points, Sir, I wish to say a word. The gentleman differs from me as to the degree of pressure on the country. He admits that, in some parts, there is some degree of pressure; in large cities, he supposes there may be distress; but he asserts that everywhere else the pressure is limited; that everywhere it is greatly exaggerated; and that it will soon be over. This is mere matter of opinion. It is capable of no precise and absolute proof or disproof. The avenues of knowledge are equally open to all. But I can truly say, that I differ from the gentleman on this point most materially and most widely. From the information I have received during the last few weeks, I have every reason to believe that the pressure is very severe, has become very general, and is fast increasing; and I see no chance of its diminution, unless measures of relief shall be adopted by the government.

But the gentleman has discovered, or thinks he has discovered, motives for the complaints which arise on all sides. It is all but an attempt to bring the administration into disfavor. This alone is the reason why the removal of the deposits is so

strongly censured! Sir, the gentleman is mistaken. He does not, at least I think he does not, rightly interpret the signs of the times. The cause of complaint is much deeper and stronger than any mere desire to produce political effect. The gentleman must be aware, that, notwithstanding the great vote by which the New York resolutions were carried, and the support given by other proceedings to the removal of the deposits, there are many as ardent friends of the President as are to be found anywhere who exceedingly regret and deplore the measure. Sir, on this floor there has been going on for many weeks as interesting a debate as has been witnessed for twenty years; and yet I have not heard, among all who have supported the administration, a single Senator say that he approved the removal of the deposits, or was glad it had taken place, until the gentleman from New York spoke. I saw the gentleman from Georgia approach that point; but he shunned direct contact. He complained much of the bank; he insisted, too, on the power of removal; but I did not hear him say he thought it a wise act. The gentleman from Virginia, not now in his seat, also defended the power, and has arraigned the bank; but has he said that he approved the measure of removal? I have not met with twenty individuals, in or out of Congress, who have expressed an approval of it, among the many hundreds whose opinions I have heard, — not twenty who have maintained that it was a wise proceeding; but I have heard individuals of ample fortune, although they wholly disapproved the measure, declare, nevertheless, that, since it was adopted, they would sacrifice all they possessed rather than not support it. Such is the warmth of party zeal.

Sir, it is a mistake to suppose that the present agitation of the country springs from mere party motives. It is a great mistake. Every body is not a politician. The mind of every man in the country is not occupied with the project of subverting one administration, and setting up another. The gentleman has done great injustice to the people. I know, Sir, that great injustice has been done to the memorialists from Boston, whose resolutions I presented some days since, some of whom are very ardent friends of the President, and can have been influenced by no such motive as has been attributed to them.

But, Mr. President, I think I heard yesterday something from

the gentleman from Pennsylvania indicative of an intention to direct the hostility of the country against the bank, and to ascribe to the bank alone the existing public distress. But it was the duty of the government to have foreseen the consequences of the removal of the deposits; and gentlemen have no right first to attack the bank, charge it with great offences, and thus attempt to shake its credit, and then complain when the bank undertakes to defend itself, and to avoid the great risk which must threaten it from the hostility of the government to its property and character. The government has placed itself in an extraordinary relation, not only toward the banks, but toward the business and currency of the country, by the removal of the deposits. The bills of the bank are lawful currency in all payments to government; yet we see the executive warring on the credit of this national currency. We have seen the institution assailed, which, by law, was provided to supply the revenue. Is not this a new course? Does the recollection of the gentleman furnish any such instance? What other institution could stand against such hostility? The Bank of England could not stand against it a single hour. The Bank of France would perish at the first breath of such hostility. But the Bank of the United States has sustained its credit under every disadvantage, and has ample means to sustain it to the end. Its credit is in no degree shaken, though its operations are necessarily curtailed. What has the bank done? The gentleman from New York and the gentleman from Pennsylvania have alleged that it is not because of the removal of the deposits that there is pressure in the country, but because of the conduct of the bank. The latter gentleman, especially, alleges that the bank began to curtail its discounts before the removal of the deposits, and at a time when it was only *expected* that they would be removed. Indeed! and did not the bank, by taking this course, prove that it foresaw correctly what was to take place? and because it adopted a course of preparation, in order to break the blow which was about to fall upon it, this also is to be added to the grave catalogue of its offences. The bank, it seems, has curtailed to the amount of nine millions. Has she, indeed? And is not that exactly the amount of deposits which the government has withdrawn? The bank, then, has curtailed precisely so much as the government has drawn away from it. No other bank in the

world could have gone on with so small a curtailment. While public confidence was diminishing all around the bank, it only curtailed just as much as it lost by the act of the government. The bank would be justified, even without the withdrawal of the deposits, in curtailing its discounts gradually, and continuing to do so to the end of its charter, considering the hostility manifested to its further continuance. The government has refused to recharter it. Its term of existence is approaching: one of the duties which it has to perform is to make its collections; and the process of collection, since it must be slow, ought to be commenced in season. It is, therefore, its duty to begin its curtailments, so that the process may be gradual.

I hope that I have not been misunderstood in my remarks the other morning. The gentleman from New York has represented me as saying, that it is not the removal of the deposits which has caused the public distress. What I said was, that if the government had required twice nine millions for its service, the withdrawal of that amount from the bank, without any interruption of the good understanding between the government and the bank, would not have caused this pressure and distrust. Every thing turns on the circumstances under which the withdrawal is made. If public confidence is not shaken, all is well; but if it is, all, all is difficulty and distress. And this confidence is shaken.

It has been said by the gentleman from New York, that government has no design against the bank; that it only desires to withdraw the public deposits. Yet, in the very paper submitted to Congress by the executive department, the bank is arraigned as unconstitutional in its very origin, and also as having broken its charter and violated its obligations, and its very existence is said to be dangerous to the country. Is not all this calculated to injure the character of the bank, and to shake confidence? The bank has its foreign connections, and is much engaged in the business of foreign exchanges; and what will be thought at Paris and London, when the community there shall see all these charges made by the government against a bank in which they have always reposed the highest trust? Does not this injure its reputation? Does it not compel it to take a defensive attitude? The gentleman from New York spoke of the power in the country to put down the bank, and of doing as our

fathers did in the time of the Revolution, and has called on the people to rise and put down this money power, as our ancestors put down the oppressive rule of Great Britain! All this is well calculated to produce the effect which is intended; and all this, too, helps further to shake confidence. It all injures the bank, it all compels it to curtail more and more.

Sir, I venture to predict that the longer gentlemen pursue the experiment which they have devised, of collecting the public revenue by State banks, the more perfectly will they be satisfied that it cannot succeed. The gentleman has suffered himself to be led away by false analogies. He says, that when the present bank expires, there will be the same laws in existence as when the old bank expired. Now, would it not be the inference of every wise man, that there will also be the same inconveniences as were then felt? It would be useful to remember the state of things which existed when the first bank was created, in 1791; and that a high degree of convenience, which amounted to political necessity, compelled Congress thus early to create a national bank. Its charter expired in 1811, and the war came on the next year. The State banks immediately stopped payment; and, before the war had continued twelve months, there was a proposition for another United States Bank; and this proposal was renewed from year to year, and from session to session. Who supported this proposition? The very individuals who had opposed the former bank, and who had now become convinced of the indispensable necessity of such an institution. It has been verified by experience, that the bank is as necessary in time of peace as in time of war; and perhaps more necessary, for the purpose of facilitating the commercial operations of the country, collecting the revenue, and sustaining the currency. It has been alleged, that we are to be left in the same condition as when the old bank expired, and, of course, we are to be subjected to the same inconveniences. Sir, why should we thus suffer all experience to be lost upon us? For the convenience of the government and of the country, there must be some bank, at least I think so; and I should wish to hear the views of the administration as to this point.

The notes and bills of the Bank of the United States have heretofore been circulated everywhere; they meet the wants of every one; they have furnished a safe and most convenient cur-

rency. It is impossible for Congress by enactment to confer a certain value on the paper of the State banks. They may say that these banks are entitled to credit; but they cannot legislate them into the good opinion and faith of the public. Credit is a thing which must take its own course. It can never happen that the New York notes will be at par value in Louisiana, or that the notes of the Louisiana banks will be at par value in New York. In the notes of the United States Bank we have a currency of equal value everywhere; and I say that there is not to be found, in the whole world, another institution whose notes spread so far and wide, with perfect credit in all places. There is no instance of a bank whose paper is spread over so vast a surface of country, and is everywhere of such equal value. How can it be, that a number of State banks, scattered over two thousand miles of country, subject to twenty-four different State legislatures and State tribunals, without the possibility of any general concert of action, can supply the place of one general bank? It cannot be. I see, Sir, in the doctrines which have been advanced to-day, only new distress and disaster, new insecurity, and more danger to property than the country has experienced for many years; because it is in vain to attempt to uphold the occupations of industry, unless property is made secure; or the value of labor, unless its recompense is safe. But an opportunity will occur for resuming this subject hereafter. I forbear to dwell upon it at present.

A word or two on one other point. It was said by me, on a former day, that this immediate question of the deposits does not necessarily draw after it the question of rechartering the Bank of the United States. It leaves that question for future adjustment. But the present question involves high political considerations, which I am not now about to discuss. If the question of the removal of the deposits be not now taken into view, gentlemen will be bound to vote on the resolutions of the Senator from Kentucky,* as to the power which has been claimed and exercised. The question, then, is not as to the renewing of the charter of the bank. But I repeat, that, however gentlemen may flatter themselves, if it be not settled that the deposits are to be restored, nothing will be settled; negative resolutions will

not tranquillize the country and give it repose. The question is before the country; all agree that it must be settled by that country. I very much regret that topics are mixed up with the question which may prevent it from being submitted to the calm judgment of the people. Yet I have not lost faith in public sentiment. Events are occurring daily, which will make the people think for themselves. The industrious, the enterprising, will see the danger which surrounds them, and will awake. If the majority of the people shall then say there is no necessity for a continuance of this sound and universal currency, I will acquiesce in their judgment, because I can do no otherwise than acquiesce. If the gentleman from New York is right in his reading of the prognostics, and public opinion shall settle down in the way which he desires; and if it be determined here that the public money is to be placed at the disposal of the executive, with absolute power over the whole subject of its custody and guardianship, and that the general currency is to be left to the control of banks created by twenty-four States; — then I say, that, in my judgment, one strong bond of our social and political Union is severed, and one great pillar of our prosperity is broken and prostrate.

Mr. Tallmadge of New York spoke in reply to Mr. Webster, and denied the constitutional power of Congress to create a bank, although he maintained the power of the Secretary to make use of the State banks.

The subject being resumed the next day, January 31, Mr. Webster said: —

It is not to be denied, Sir, that the financial affairs of the country have come, at last, to such a state, that every man can see plainly the question which is presented for the decision of Congress. We have, unquestionably, before us, now, the views of the executive, as to the nature and extent of the evils alleged to exist; and its notions, also, as to the proper remedy for such evils. That remedy is short. It is, simply, the system of administration already adopted by the Secretary of the Treasury, and which is nothing but this, that, whenever he shall think proper to remove the public moneys from the Bank of the United States, and place them wherever else he pleases, this act shall stand as the settled policy and system of the country; and this system shall rest upon the authority of the executive alone.

This is now to be our future policy, as I understand the grave, significant import of the remarks made yesterday by the gentleman from New York, and as I perceive they are generally understood, and as they are evidently understood by the gentleman from Mississippi,* who has alluded to them on presenting his resolutions this morning. I wish, Sir, to take this, the earliest opportunity, of stating my opinions upon this subject; and that opinion is, that the remedy proposed by the administration for the evils under which the country is at this time suffering cannot bring relief, will not give satisfaction, and cannot be acquiesced in. I think the country, on the other hand, will show much dissatisfaction; and that from no motive of hostility to the government, from no disposition to make the currency of the country turn upon political events, or to make political events turn upon the question of the currency; but simply because, in my judgment, the system is radically defective, totally insufficient, carrying with it little confidence of the public, and none at all beyond what it acquires merely by the influence of the name which recommends it.

I do not intend now, Mr. President, to go into a regular and formal argument to prove the constitutional power of Congress to establish a national bank. That question has been argued a hundred times, and always settled the same way. The whole history of the country, for almost forty years, proves that such a power has been believed to exist. All previous Congresses, or nearly all, have admitted or sanctioned it; the judicial tribunals, federal and State, have sanctioned it. The Supreme Court of the United States has declared the constitutionality of the present bank, after the most solemn argument, without a dissenting voice on the bench. Every successive President has, tacitly or expressly, admitted the power. The present President has done this; he has informed Congress that he could furnish the plan of a bank which should conform to the Constitution. In objecting to the recharter of the present bank, he objected for particular reasons; and he has said that a Bank of the United States would be useful and convenient for the people.

All this authority, I think, ought to settle the question. Both the members from New York, however, are still unsatisfied;

* Mr. Poindexter.

they both deny the power of Congress to establish a bank. Now, Sir, I shall not argue the question at this time; but I will repeat what I said yesterday. It does appear to me, that the late measures of the administration prove incontestably, and by a very short course of reasoning, the constitutionality of the bank. What I said yesterday, and what I say to-day, is, that, since the Secretary, and all who agree with the Secretary, admit the necessity of the agency of *some* bank to carry on the affairs of government, I am at a loss to see where they could find power to use a State bank, and yet find no power to create a Bank of the United States. The gentleman's perception may be sharp enough to see a distinction between these two cases; but it is too minute for my grasp. It is not said, in terms, in the Constitution, that Congress may create a bank; nor is it said, in terms, that Congress may use a bank created by a State. How, then, does it get authority to do either? No otherwise, certainly, than as it possesses power to pass all laws necessary and proper for carrying its enumerated powers into effect. If a law were now before us for confirming the arrangement of the Secretary, and adopting twenty State banks into the service of the United States, as fiscal agents of the government, where would the honorable gentleman find authority for passing such a law? Nowhere but in that clause of the Constitution to which I have referred; that is to say, the clause which authorizes Congress to pass all laws necessary and proper for carrying its granted powers into effect. If such a law were before us, and the honorable member proposed to vote for it, he would be obliged to prove that the agency of a bank is a thing both necessary and proper for carrying on the government. If he could not make this out, the law would be unconstitutional. We see the Secretary admits the necessity of this bank agency; the gentleman himself admits it, nay, contends for it. A bank agency is his main reliance. All the hopes expressed by himself or his colleague, of being able to get on with the present state of things, rest on the expected efficiency of a bank agency.

A bank, then, or some bank, being admitted to be both necessary and proper for carrying on the government, and the Secretary proposing, on that very ground, and no other, to employ the State banks, how does he make out a distinction between passing a law for using a necessary agent, already created,

and a law for creating a similar agent, to be used, when created, for the same purpose? If there be any distinction, as it seems to me, it is rather in favor of creating a bank, by the authority of Congress, with such powers, and no others, as the service expected from it requires, answerable to Congress, and always under the control of Congress, than of employing as our agents banks created by other governments, for other purposes, and over which this government has no control.

But, Sir, whichever power is exercised, both spring from the same source; and the power to establish a bank, on the ground that its agency is necessary and proper for the ends and uses of government, is at least as plainly constitutional as the power to adopt banks, for the same uses and objects, which are already made by other governments. Inded, the legal act is, in both cases, the same. When Congress makes a bank, it creates an agency; when it adopts a State bank, it creates an agency. If there be power for one, therefore, there is power for the other. No power to create a corporation is expressly given to Congress; nor is Congress anywhere forbidden to create a corporation. The creation of a corporation is an act of law, and when it passes, the only question is, whether it be a necessary and proper law for carrying on the government advantageously. The case will be precisely the same when we shall be asked to pass a law for confirming the Secretary's arrangement with State banks. Each is constitutional, if Congress may fairly regard it as a necessary measure.

The honorable member, Sir, quoted me as having said that I regarded the bank as one of the greatest bonds of the union of the States. That is not exactly what I said. What I did say was, that the constitutional power vested in Congress over the legal currency of the country was one of its very highest powers, and that the exercise of this high power was one of the strongest bonds of the union of the States. And this I say still. Sir, the gentleman did not go to the Constitution. He did not tell us how he understands it, or how he proposes to execute the great trust which it devolves on Congress in respect to the circulating medium. I can only say, Sir, how I understand it.

The Constitution declares that Congress shall have power "to coin money, *regulate the value thereof*, and of foreign coin." And it also declares that "no State shall coin money, emit bills

of credit, or make any thing but gold and silver coin a tender in payment of debts." Congress, then, and Congress only, can coin money, and *regulate the value thereof.* Now, Sir, I take it to be a truth, which has grown into an admitted maxim with all the best writers and the best informed public men, that those whose duty it is to protect the community against the evils of a debased coin, are bound also to protect it against the still greater evils of excessive issues of paper.

If the public require protection, says Mr. Ricardo, against bad money, which might be imposed on them by an undue mixture of alloy, how much more necessary is such protection when paper money forms almost the whole of the circulating medium of the country!

It is not to be doubted, Sir, that the Constitution intended that Congress should exercise a regulating power, a power both necessary and salutary, over that which should constitute the actual money of the country, whether that money were coin or the representative of coin. So it has always been considered: so Mr. Madison considered it, as may be seen in his message of the 3d of December, 1816. He there says: —

"Upon this general view of the subject, it is obvious that there is only wanting to the fiscal prosperity of the government the restoration of a uniform medium of exchange. The resources and the faith of the nation, displayed in the system which Congress has established, insure respect and confidence both at home and abroad. The local accumulations of the revenue have already enabled the treasury to meet the public engagements in the local currency of most of the States; and it is expected that the same cause will produce the same effect throughout the Union. But for the interests of the community at large, as well as for the purposes of the treasury, it is essential that the nation should possess a currency of equal value, credit, and use, wherever it may circulate. The Constitution has intrusted Congress exclusively with the power of creating and regulating a currency of that description; and the measures which were taken during the last session, in execution of the power, give every promise of success. The Bank of the United States has been organized under auspices the most favorable, and cannot fail to be an important auxiliary to those measures."

The State banks put forth paper as representing coin. As such representative, it obtains circulation; it becomes the money of the country; but its amount depends on the will of four hun-

dred different State banks, each acting on its own discretion; and in the absence of every thing preventive or corrective on the part of the United States, what security is there against excessive issues of paper, and consequent depreciation? The public feels that there is no security against these evils; it has learned this from experience; and this very feeling, this distrust of the paper of State banks, is the very evil which they themselves have to encounter; and it is a most serious evil. They know that confidence in them is far greater when there exists a power elsewhere to prevent excess and depreciation. Such a power, therefore, is friendly to their best interests. It gives confidence and credit to them, one and all. Hence a vast majority of the State banks, nearly all, perhaps, except those who expect to be objects of particular favor, desire the continuance of a national bank, as an institution highly useful to themselves.

The mode in which the operations of a national institution afford security against excessive issues by local banks is not violent, coercive, or injurious. On the contrary, it is gentle, salutary, and friendly. The result is brought about by the natural and easy operation of things. The money of the Bank of the United States, having a more wide-spread credit and character, is constantly wanted for purposes of remittance. It is purchased, therefore, for this purpose, and paid for in the bills of local banks and it may be purchased, of course, at par, or near it, if these local bills are offered in the neighborhood of their own banks, and these banks are in good credit. These local bills then return to the bank that issued them. The result is, that, while the local bills will or may supply, in great part, the local circulation (not being capable, for want of more extended credit, of being remitted to great distances), their amount is thus limited to the purposes of local circulation; and any considerable excess beyond this finds, in due season, a salutary corrective. This is one of the known benefits of the bank. Every man of business understands it, and the whole country has realized the security which this course of things has produced.

But, Sir, as to the question of the deposits, the honorable gentleman thinks he sees, at last, the curtain raised; he sees the object of the whole debate. He insists that the question of the restoration of the deposits, and the question of rechartering the bank, are the same question. It strikes me, Sir, as being

strange that the gentleman did not draw an exactly opposite inference from his own premises. He says he sees the Northern friends of the bank and the Southern opposers of the bank agreeing for the restoration of the deposits. This is true; and does not this prove that the question is a separate one? On the one question, the North and the South are together; on the other, they separate. Either their apprehensions are obtuse, or else this very statement shows the questions to be distinct.

Sir, since the gentleman has referred to the North and the South, I will venture to ask him if he sees nothing important in the aspect which the South presents? On this question of the deposits, does he not behold almost an entire unanimity in the South? How many from the Potomac to the Gulf of Mexico defend the removal? For myself, I declare that I have not heard a member of Congress from beyond the Potomac say, either in or out of his seat, that he approved the measure. Can the gentleman see nothing in this but proof that the deposit question and the question of recharter are the same? Sir, gentlemen must judge for themselves; but it appears plain enough to me that the President has lost more friends at the South by this interference with the public deposits than by any or all other measures.

I must be allowed now, Sir, to advert to a remark in the speech of the honorable member from New York on the left of the Chair,* as I find it in a morning paper. It is this: —

"Be assured, Sir, whatever nice distinctions may be drawn here as to the show of influence which expressions of the popular will upon such a subject are entitled to from us, it is possible for that will to assume a constitutional shape, which the Senate cannot misunderstand, and, understanding, will not unwisely resist."

Mr. Wright said, it should have been *share* of influence. Mr. Webster continued: —

That does not alter the sense. Mr. President, I wish to keep the avenues of public opinion, from the whole country to the Capitol, all open, broad, and straight. I desire always to know the state of that opinion on great and important subjects. From me, that opinion always has received, and always will receive, the most respectful attention and consideration. And whether

* Mr. Wright

it be expressed by State legislatures, or by public meetings, or be collected from individual expressions, in whatever form it comes, it is always welcome. But, Sir, the legislation for the United States must be conducted here. The law of Congress must be the will of Congress, and the proceedings of Congress its own proceedings. I hope nothing intimidating was intended by this expression.

Mr. Wright intimated it was not.

Then, Sir, I forbear further remark.

Sir, there is one other subject on which I wish to raise my voice. There is a topic which I perceive is to become the general war-cry of party, on which I take the liberty to warn the country against delusion. Sir, the cry is to be raised that this is a question between the poor and the rich. I know, Sir, it has been proclaimed, that one thing was certain, that there was always a hatred on the part of the poor toward the rich; and that this hatred would support the late measures, and the putting down of the bank. Sir, I will not be silent at the threat of such a detestable fraud on public opinion. If but ten men, or one man, in the nation will hear my voice, I will still warn them against this attempted imposition.

Mr. President, this is an eventful moment. On the great questions which occupy us, we all look for some decisive movement of public opinion. As I wish that movement to be free, intelligent, and unbiased, the true manifestation of the public will, I desire to prepare the country for another appeal, which I perceive is about to be made to popular prejudice, another attempt to obscure all distinct views of the public good, to overwhelm all patriotism and all enlightened self-interest, by loud cries against false danger, and by exciting the passions of one class against another. I am not mistaken in the omen; I see the magazine whence the weapons of this warfare are to be drawn. I hear already the din of the hammering of arms preparatory to the combat. They may be such arms, perhaps, as reason, and justice, and honest patriotism cannot resist. Every effort at resistance, it is possible, may be feeble and powerless; but, for one, I shall make an effort, — an effort to be begun now, and to be carried on and continued, with untiring zeal, till the end of the contest.

Sir, I see, in those vehicles which carry to the people sentiments from high places, plain declarations that the present controversy is but a strife between one part of the community and another. I hear it boasted as the unfailing security, the solid ground, never to be shaken, on which recent measures rest, *that the poor naturally hate the rich.* I know that, under the cover of the roofs of the Capitol, within the last twenty-four hours, among men sent here to devise means for the public safety and the public good, it has been vaunted forth, as matter of boast and triumph, that one cause existed powerful enough to support every thing and to defend every thing; and that was, *the natural hatred of the poor to the rich.*

Sir, I pronounce the author of such sentiments to be guilty of attempting a detestable fraud on the community; a double fraud; a fraud which is to cheat men out of their property and out of the earnings of their labor, by first cheating them out of their understandings.

"The natural hatred of the poor to the rich!" Sir, it shall not be till the last moment of my existence, — it shall be only when I am drawn to the verge of oblivion, when I shall cease to have respect or affection for any thing on earth, — that I will believe the people of the United States capable of being effectually deluded, cajoled, and *driven about in herds*, by such abominable frauds as this. If they shall sink to that point, if they so far cease to be men, thinking men, intelligent men, as to yield to such pretences and such clamor, they will be slaves already; slaves to their own passions, slaves to the fraud and knavery of pretended friends. They will deserve to be blotted out of all the records of freedom; they ought not to dishonor the cause of self-government, by attempting any longer to exercise it; they ought to keep their unworthy hands entirely off from the cause of republican liberty, if they are capable of being the victims of artifices so shallow, of tricks so stale, so threadbare, so often practised, so much worn out, on serfs and slaves.

"The natural hatred of the poor against the rich!" "The danger of a moneyed aristocracy!" "A power as great and dangerous as that resisted by the Revolution!" "A call to a new declaration of independence!" Sir, I admonish the people against the object of outcries like these. I admonish every industrious laborer in the country to be on his guard against such

delusion. I tell him the attempt is to play off his passions against his interests, and to prevail on him, in the name of liberty, to destroy all the fruits of liberty; in the name of patriotism, to injure and afflict his country; and in the name of his own independence, to destroy that very independence, and make him a beggar and a slave. Has he a dollar? He is advised to do that which will destroy half its value. Has he hands to labor? Let him rather fold them, and sit still, than be pushed on, by fraud and artifice, to support measures which will render his labor useless and hopeless.

Sir, the very man, of all others, who has the deepest interest in a sound currency, and who suffers most by mischievous legislation in money matters, is the man who earns his daily bread by his daily toil. A depreciated currency, sudden changes of prices, paper money, falling between morning and noon, and falling still lower between noon and night, — these things constitute the very harvest-time of speculators, and of the whole race of those who are at once idle and crafty; and of that other race, too, the Catilines of all times, marked, so as to be known for ever by one stroke of the historian's pen, *those greedy of other men's property and prodigal of their own.* Capitalists, too, may outlive such times. They may either prey on the earnings of labor, by their *cent. per cent.*, or they may hoard. But the laboring man, what can he hoard? Preying on nobody, he becomes the prey of all. His property is in his hands. His reliance, his fund, his productive freehold, his all, is his labor. Whether he work on his own small capital, or another's, his living is still earned by his industry; and when the money of the country becomes depreciated and debased, whether it be adulterated coin or paper without credit, that industry is robbed of its reward. He then labors for a country whose laws cheat him out of his bread. I would say to every owner of every quarter-section of land in the West, I would say to every man in the East who follows his own plough, and to every mechanic, artisan, and laborer in every city in the country, — I would say to every man, everywhere, who wishes by honest means to gain an honest living, "Beware of wolves in sheep's clothing. Whoever attempts, under whatever popular cry, to shake the stability of the public currency, bring on distress in money matters, and drive the country into the use of paper money, stabs your interest and your happiness to the heart."

The herd of hungry wolves who live on other men's earnings will rejoice in such a state of things. A system which absorbs into their pockets the fruits of other men's industry is the very system for them. A government that produces or countenances uncertainty, fluctuations, violent risings and fallings in prices, and, finally, paper money, is a government exactly after their own heart. Hence these men are always for change. They will never let well enough alone. A condition of public affairs in which property is safe, industry certain of its reward, and every man secure in his own hard-earned gains, is no paradise for them. Give them just the reverse of this state of things; bring on change, and change after change; let it not be known to-day what will be the value of property to-morrow; let no man be able to say whether the money in his pockets at night will be money or worthless rags in the morning; and depress labor till double work shall earn but half a living, — give them this state of things, and you give them the consummation of their earthly bliss.

Sir, the great interest of this great country, the producing cause of all its prosperity, is labor! labor! labor! We are a laboring community. A vast majority of us all live by industry and actual employment in some of their forms. The Constitution was made to protect this industry, to give it both encouragement and security; but, above all, security. To that very end, with that precise object in view, power was given to Congress over the currency, and over the money system of the country. In forty years' experience, we have found nothing at all adequate to the beneficial execution of this trust but a well-conducted national bank. That has been tried, returned to, tried again, and always found successful. If it be not the proper thing for us, let it be soberly argued against; let something better be proposed; let the country examine the matter coolly, and decide for itself. But whoever shall attempt to carry a question of this kind by clamor, and violence, and prejudice; whoever would rouse the people by appeals, false and fraudulent appeals, to their love of independence, to resist the establishment of a useful institution, because it is a bank, and deals in money, and who artfully urges these appeals wherever he thinks there is more of honest feeling than of enlightened judgment, — means nothing but deception. And whoever has the wickedness to conceive, and

the hardihood to avow, a purpose to break down what has been found, in forty years' experience, essential to the protection of all interests, by arraying one class against another, and by acting on such a principle as *that the poor always hate the rich*, shows himself the reckless enemy of all. An enemy to his whole country, to all classes, and to every man in it, he deserves to be marked especially *as the poor man's curse!*

Mr. President, I feel that it becomes me to bring to the present crisis all of intellect, all of diligence, all of devotion to the public good, that I possess. I act, Sir, in opposition to nobody. I desire rather to follow the administration, in a proper remedy for the present distress, than to lead. I have felt so from the beginning, and until the declaration of yesterday made it certain that there is no further measure to be proposed. The expectation is, that the country will get on under the present state of things. Being myself entirely of a different opinion, and looking for no effectual relief until some other measure is adopted, I shall, nevertheless, be most happy to be disappointed. But if I shall not be mistaken, if the pressure shall continue, and if the indications of general public sentiment shall point in that direction, I shall feel it my duty, let the consequences be what they may, to propose a law for *altering and continuing the charter of the Bank of the United States.*

On Saturday, the 22d of February, in a debate on presenting a memorial from Maine, Mr. Forsyth having, on the day before, described what he understood to be the experiment which the executive government was trying in regard to the public deposits, Mr. Webster addressed the Senate as follows.

Mr. President, — The honorable member from Georgia stated yesterday, more distinctly than I have before learned it, what that experiment is which the government is now trying on the revenues and the currency, and, I may add, on the commerce, manufactures, and agriculture of this country. If I rightly apprehend him, this experiment is an attempt to return to an exclusive specie currency, first, by employing the State banks

as a substitute for the Bank of the United States; and then by dispensing with the use of the State banks themselves.

This, Sir, is the experiment. I thank the gentleman for thus stating its character. He has done his duty, and dealt fairly with the people, by this exhibition of what the views of the executive government are, at this interesting moment. It is certainly most proper that the people should see distinctly to what end or for what object it is that so much suffering is already upon them, and so much more already in visible and near prospect.

And now, Sir, is it possible, — is it possible that twelve millions of intelligent people can be expected voluntarily to subject themselves to severe distress, of unknown duration, for the purpose of making trial of an experiment like this? Will a nation that is intelligent, well informed of its own interest, enlightened, and capable of self-government, submit to suffer embarrassment in all its pursuits, loss of capital, loss of employment, and a sudden and dead stop in its onward movement in the path of prosperity and wealth, until it shall be ascertained whether this new-hatched theory shall answer the hopes of those who have devised it? Is the country to be persuaded to bear every thing, and bear patiently, until the operation of such an experiment, adopted for such an avowed object, and adopted, too, without the co-operation or consent of Congress, and by the executive power alone, shall exhibit its results?

In the name of the hundreds of thousands of our suffering fellow-citizens, I ask, for what reasonable end is this experiment to be tried? What great and good object, worth so much cost, is it to accomplish? What enormous evil is to be remedied by all this inconvenience and all this suffering? What great calamity is to be averted? Have the people thronged our doors, and loaded our tables with petitions for relief against the pressure of some political mischief, some notorious misrule, which this experiment is to redress? Has it been resorted to in an hour of misfortune, calamity, or peril, to save the state? Is it a measure of remedy, yielded to the importunate cries of an agitated and distressed nation? Far, Sir, very far from all this. There was no calamity, there was no suffering, there was no peril, when these measures began. At the moment when this experiment was entered upon, these twelve millions of people

were prosperous and happy, not only beyond the example of all others, but even beyond their own example in times past.

There was no pressure of public or private distress throughout the whole land. All business was prosperous, all industry was rewarded, and cheerfulness and content universally prevailed. Yet, in the midst of all this enjoyment, with so much to heighten and so little to mar it, this experiment comes upon us, to harass and oppress us at present, and to affright us for the future. Sir, it is incredible; the world abroad will not believe it; it is difficult even for us to credit, who see it with our own eyes, that the country, at such a moment, should put itself upon an experiment fraught with such immediate and overwhelming evils, and threatening the property and the employments of the people, and all their social and political blessings, with severe and long-enduring future inflictions.

And this experiment, with all its cost, is to be tried, for what? Why, simply, Sir, to enable us to try another "experiment"; and that other experiment is, to see whether an exclusive specie currency may not be better than a currency partly specie and partly bank paper! The object which it is hoped we may effect, by patiently treading this path of endurance, is to banish all bank paper, of all kinds, and to have coined money, and coined money only, as the actual currency of the country!

Now, Sir, I altogether deny that such an object is at all desirable, even if it could be attained. I know, indeed, that all paper ought to circulate on a specie basis; that all bank-notes, to be safe, must be convertible into gold and silver at the will of the holder; and I admit, too, that the issuing of very small notes by many of the State banks has too much reduced the amount of specie actually circulating. It may be remembered that I called the attention of Congress to this subject in 1832, and that the bill which then passed both houses for renewing the bank charter contained a provision designed to produce some restraint on the circulation of very small notes. I admit there are conveniences in making small payments in specie; and I have always not only admitted, but contended, that, if all issues of bank-notes under five dollars were discontinued much more specie would be retained in the country, and in the circulation; and that great security would result from this.

But we are now debating about an *exclusive* specie currency, and I deny that an exclusive specie currency is the best currency for any highly commercial country; and I deny, especially, that such a currency would be best suited to the condition and circumstances of the United States. With the enlightened writers and practical statesmen of all commercial communities in modern times, I have supposed it to be admitted that a well regulated, properly restrained, safely limited paper currency, circulating on an adequate specie basis, was a thing to be desired, a political public advantage to be obtained, if it might be obtained; and, more especially, I have supposed that in a new country, with resources not yet half developed, with a rapidly increasing population and a constant demand for more and more capital, — that is to say, in just such a country as the United States are, I have supposed that it was admitted that there are particular and extraordinary advantages in a safe and well regulated paper currency; because in such a country well regulated bank paper not only supplies a convenient medium of payments and of exchange, but also, by the expansion of that medium in a reasonable and safe degree, the amount of circulation is kept more nearly commensurate with the constantly increasing amount of property; and an extended capital, in the shape of credit, comes to the aid of the enterprising and the industrious. It is precisely on this credit, created by reasonable expansion of the currency in a new country, that men of small capital carry on their business. It is exactly by means of this, that industry and enterprise are stimulated. If we were driven back to an exclusively metallic currency, the necessary and inevitable consequence would be, that all trade would fall into the hands of large capitalists. This is so plain, that no man of reflection can doubt it. I know not, therefore, in what words to express my astonishment, when I hear it said that the present measures of government are intended for the good of the many instead of the few, for the benefit of the poor, and against the rich; and when I hear it proposed, at the same moment, to do away with the whole system of credit, and place all trade and commerce, therefore, in the hands of those who have adequate capital to carry them on without the use of any credit at all. This, Sir, would be dividing society, by a precise, distinct, and well-defined line, into two classes; first, the small class, who have

competent capital for trade, when credit is out of the question, and, secondly, the vastly numerous class of those whose living must become, in such a state of things, a mere manual occupation, without the use of capital or of any substitute for it.

Now, Sir, it is the effect of a well regulated system of paper credit to break in upon this line thus dividing the many from the few, and to enable more or less of the more numerous class to pass over it, and to participate in the profits of capital by means of a safe and convenient substitute for capital; and thus to diffuse far more widely the general earnings, and therefore the general prosperity and happiness, of society. Every man of observation must have witnessed, in this country, that men of heavy capital have constantly complained of bank circulation, and a consequent credit system, as injurious to the rights of capital. They undoubtedly feel its effects. All that is gained by the use of credit is just so much subtracted from the amount of their own accumulations, and so much the more has gone to the benefit of those who bestow their own labor and industry on capital in small amounts. To the great majority, this has been of incalculable benefit in the United States; and therefore, Sir, whoever attempts the entire overthrow of the system of bank credit aims a deadly blow at the interest of that great and industrious class, who, having some capital, cannot, nevertheless, transact business without some credit. He can mean nothing else, if he have any intelligible meaning at all, than to turn all such persons over to the long list of mere manual laborers. What else can they do, with not enough of absolute capital, and with no credit? This, Sir, this is the true tendency and the unavoidable result of these measures, which have been undertaken with the patriotic object of assisting the poor against the rich!

I am well aware that bank credit may be abused. I know that there is another extreme, exactly the opposite of that of which I have now been speaking, and no less sedulously to be avoided. I know that the issue of bank paper may become excessive; that depreciation will then follow; and that the evils, the losses, and the frauds consequent on a disordered currency fall on the rich and the poor together, but with especial weight of ruin on the poor. I know that the system of bank credit must always rest on a specie basis, and that it constantly needs to be strictly

guarded and properly restrained; and it may be so guarded and restrained. We need not give up the good which belongs to it, through fear of the evils which may follow from its abuse. We have the power to take security against these evils. It is our business, as statesmen, to adopt that security; it is our business, not to prostrate, or attempt to prostrate, the system, but to use those means of precaution, restraint, and correction, which experience has sanctioned, and which are ready at our hands.

It would be to our everlasting reproach, it would be placing us below the general level of the intelligence of civilized states, to admit that we cannot contrive means to enjoy the benefits of bank circulation, and of avoiding, at the same time, its dangers. Indeed, Sir, no contrivance is necessary. It is *contrivance*, and the love of contrivance, that spoil all. We are destroying ourselves by a remedy which no evil called for. We are ruining perfect health by nostrums and quackery. We have lived hitherto under a well constructed, practical, and beneficial system; a system not surpassed by any in the world; and it seems to me to be presuming largely, largely indeed, on the credulity and self-denial of the people, to rush with such sudden and impetuous haste into new schemes and new theories, to overturn and annihilate all that we have so long found useful.

Our system has hitherto been one in which paper has been circulating on the strength of a specie basis; that is to say, when every bank-note was convertible into specie at the will of the holder. This has been our guard against excess. While banks are bound to redeem their bills by paying gold and silver on demand, and are at all times able to do this, the currency is safe and convenient. Such a currency is not paper money, in its odious sense. It is not like the Continental paper of Revolutionary times; it is not like the worthless bills of banks which have suspended specie payments. On the contrary, it is the representative of gold and silver, and convertible into gold and silver on demand, and therefore answers the purposes of gold and silver; and so long as its credit is in this way sustained, it is the cheapest, the best, and the most convenient circulating medium. I have already endeavored to warn the country against irredeemable paper; against the paper of banks which do not pay specie for their own notes; against that miserable, abominable, and

fraudulent policy, which attempts to give value to any paper, of any bank, one single moment longer than such paper is redeemable on demand in gold and silver. I wish most solemnly and earnestly to repeat that warning. I see danger of that state of things ahead. I see imminent danger that a portion of the State banks will stop specie payments. The late measure of the Secretary, and the infatuation with which it seems to be supported, tend directly and strongly to that result. Under pretence, then, of a design to return to a currency which shall be all specie, we are likely to have a currency in which there shall be no specie at all. We are in danger of being overwhelmed with irredeemable paper, mere paper, representing not gold nor silver; no, Sir, representing nothing but broken promises, bad faith, bankrupt corporations, cheated creditors, and a ruined people. This, I fear, Sir, may be the consequence, already alarmingly near, of this attempt, unwise if it be real, and grossly fraudulent if it be only pretended, of establishing an exclusively hard-money currency.

But, Sir, if this shock could be avoided, and if we could reach the object of an exclusive metallic circulation, we should find in that very success serious and insurmountable inconveniences. We require neither irredeemable paper, nor yet exclusively hard money. We require a mixed system. We require specie, and we require, too, good bank paper, founded on specie, representing specie, and convertible into specie on demand. We require, in short, just such a currency as we have long enjoyed, and the advantages of which we seem now, with unaccountable rashness, about to throw away.

I avow myself, therefore, decidedly against the object of a return to an exclusive specie currency. I find great difficulty, I confess, in believing any man serious in avowing such an object. It seems to me rather a subject for ridicule, at this age of the world, than for sober argument. But if it be true that any are serious for the return of the gold and silver age, I am seriously against it.

Let us, Sir, anticipate, in imagination, the accomplishment of this grand experiment. Let us suppose that, at this moment, all bank paper were out of existence, and the country full of specie. Where, Sir, should we put it, and what should we do with it? Should we ship it, by cargoes, every day, from New York

to New Orleans, and from New Orleans back to New York? Should we encumber the turnpikes, the railroads, and the steamboats with it, whenever purchases and sales were to be made in one place of articles to be transported to another? The carriage of the money would, in some cases, cost half as much as the carriage of the goods. Sir, the very first day, under such a state of things, we should set ourselves about the creation of banks. This would immediately become necessary and unavoidable. We may assure ourselves, therefore, without danger of mistake, that the idea of an exclusively metallic currency is totally incompatible, in the existing state of the world, with an active and extensive commerce. It is inconsistent, too, with the greatest good of the greatest number; and therefore I oppose it.

But, Sir, how are we to get through the first experiment, so as to be able to try that which is to be final and ultimate, that is to say, how are we to get rid of the State banks? How is this to be accomplished? Of the Bank of the United States, indeed, we may free ourselves readily; but how are we to annihilate the State banks? We did not speak them into being; we cannot speak them out of being. They did not originate in any exercise of our power; nor do they owe their continuance to our indulgence. They are responsible to the States; to us they are irresponsible. We cannot act upon them; we can only act with them; and the expectation, as it would appear, is, that, by zealously coöperating with the government in carrying into operation its new theory, they may disprove the necessity of their own existence, and fairly work themselves out of the world! Sir, I ask once more, Is a great and intelligent community to endure patiently all sorts of suffering for fantasies like these? How charmingly practicable, how delightfully probable, all this looks!

I find it impossible, Mr. President, to believe that the removal of the deposits arose in any such purpose as is now avowed. I believe all this to be an after-thought. The removal was resolved on as a strong measure against the bank; and now that it has been attended with consequences not at all apprehended from it, instead of being promptly retracted, as it should have been, it is to be justified on the ground of a grand experiment, above the reach of common sagacity, and dropped down, as it

were, from the clouds, "to witch the world with noble policy." It is not credible, not possible, Sir, that, six months ago, the administration suddenly started off to astonish mankind with its new inventions in politics, and that it then began its magnificent project by removing the deposits as its first operation. No, Sir, no such thing. The removal of the deposits was a blow at the bank, and nothing more; and if it had succeeded, we should have heard nothing of any project for the final put ting down of all State banks. No, Sir, not one word. We should have heard, on the contrary, only of their usefulness. their excellence, and their exact adaptation to the uses and necessities of this government. But the experiment of making successful use of State banks having failed, completely failed, in this the very first endeavor; the State banks having already proved themselves not able to fill the place and perform the duties of a national bank, although highly useful in their appropriate sphere; and the disastrous consequences of the measures of government coming thick and fast upon us, the professed object of the whole movement is at once changed, and the cry now is, Down with all the State banks! Down with all the State banks! and let us return to our embraces of solid gold and solid silver!

Sir, I have no doubt that, if there are any persons in the country who have seriously wished for such an event as the extinction of all banks, they have not, nevertheless, looked for the absence of all paper circulation. They have only looked for issues of paper from another quarter. We have already had distinct intimations that paper might be issued on the foundation of the *revenue*. The treasury of the United States is intended to become the Bank of the United States, and the Secretary of the Treasury is meant to be the great national banker. Sir, to say nothing of the crudity of such a notion, I may be allowed to make one observation upon it. We have, heretofore, heard much of the danger of consolidation, and of the great and well-grounded fear of the union of all powers in this government. Now, Sir, when we shall be brought to the state of things in which all the circulating paper of the country shall be issued directly by the treasury department, under the immediate control of the executive, we shall have consolidation with a witness!

Mr. President, this experiment will not amuse the people of this country. They are quite too serious to be amused. Their suffering is too intense to be sported with. Assuredly, Sir, they will not be patient as bleeding lambs under the deprivation of great present good, and the menace of unbearable future evils. They are not so unthinking, so stupid, I may almost say, as to forego the rich blessings now in their actual enjoyment, and trust the future to the contingencies and the chances which may betide an unnecessary and a wild experiment. They will not expose themselves at once to injury and to ridicule. They will not buy reproach and scorn at so dear a rate. They will not purchase the pleasure of being laughed at by all mankind at a price quite so enormous.

Mr. President, the objects avowed in this most extraordinary measure are altogether undesirable. The end, if it could be obtained, is an end fit to be strenuously avoided; and the process adopted to carry on the experiment, and to reach that end (which it can never attain, and which, in that respect, wholly fails), does not fail, meantime, to spread far and wide a deep and general distress, and to agitate the country beyond any thing which has heretofore happened to us in a time of peace.

Sir, the people, in my opinion, will not support this experiment. They feel it to be afflictive, and they see it to be ridiculous; and ere long, I verily believe, they will sweep it away with the resistless breath of their own voice, and bury it up with the great mass of the detected delusions and rejected follies of other times. I seek, Sir, to shun all exaggeration. I avoid studiously all inflammatory over-statement, and all emblazoning. But I beseech gentlemen to open their eyes and their ears to what is passing in the country, and not to deceive themselves with the hope that things can long remain as they are, or that any beneficial change will come until the present policy shall be totally abandoned. I attempted, Sir, the other day, to describe shortly the progress of the public distress. Its first symptom was spasm, contraction, agony. It seized first the commercial and trading classes. Some survive it, and some do not. But those who, with whatever loss, effort, and sacrifice, get through the crisis without absolute bankruptcy, take good care to make no new engagements till there shall be a change of times. They abstain from all further undertakings; and this brings the

pressure immediately home to those who live by their employments. That great class now begin to feel the distress. Houses, warehouses, and ships are not now, as usual, put under contract in the cities. Manufacturers are beginning to dismiss their hands on the sea-coast and in the interior; and our artisans and mechanics, acting for themselves only, are likely soon to feel a severe want of employment in their several occupations.

This, Sir, is the real state of things. It is a state of things which is daily growing worse and worse. It calls loudly for remedy; the people demand remedy, and they are likely to persist in that demand till remedy shall come. For one, I have no new remedy to propose. My sentiments are known. I am for rechartering the bank, for a longer or a shorter time, and with more or less of modification. I am for trying no new experiments on the property, the employments, and the happiness of the whole people.

Our proper course appears to me to be as plain and direct as the Pennsylvania Avenue. The evil which the country endures, although entirely new in its extent, its depth, and its severity, is not new in its class. Other such like evils, but of much milder form, we have felt in former times. In former times, we have been obliged to encounter the pernicious effects of a disordered currency, of a general want of confidence, and of depreciated State bank paper. To these evils we have applied the remedy of a well-constituted national bank, and have found it effectual. I am for trying it again. Approved by forty years' experience, sanctioned by all successive administrations, and by Congress at all times, and called for, as I verily believe, at this very moment, by a vast majority of the people, on what ground do we resist the remedy of a national bank? It is painful, Sir, most painful, to allude to the extraordinary position of the different branches of the government; but it is necessary to allude to it. This house has once passed a bill for rechartering the present bank. The other house has also passed it, but it has been negatived by the President; and it is understood that strong objections exist with the executive to any bank incorporated, or to be incorporated, by Congress.

Sir, I think the country calls, and has a right to call, on the executive to reconsider these objections, if they do exist. Peremptory objections to all banks created by Congress have not

yet been formally announced. I hope they will not be. I think the country demands a revision of any opinions which may have been formed on this matter, and requires, in its own name, and for the sake of the suffering people, that one man's opinion, however elevated, may not oppose the general judgment. No man in this country should say, in relation to a subject of such immense interest, that his single will shall be the law.

It does not become any man, in a government like this, to stand proudly on his own opinion, against the whole country. I shall not believe, until it shall be so proved, that the executive will so stand. He has himself more than once recommended the subject to the consideration of the people, as a subject to be discussed, reasoned on, and decided. And if the public will, manifested through its regular organs, the houses of Congress, shall demand a recharter for a longer or a shorter time, with modifications to remove reasonable and even plausible objections, I am not prepared to believe that the decision of the two houses, thus acting in conformity to the known will of the people, will meet a flat negative. I shall not credit that, till I see it. I certainly shall propose, ere long, if no change or no other acceptable proposition be made, to make the trial. As I see no other practical mode of relief, I am for putting this to the test. The first thing to be done is to approve or disapprove the Secretary's reasons. Let us come to the vote, and dispose of those reasons. In the mean time, public opinion is manifesting itself. It appears to me to grow daily stronger and stronger. The moment must shortly come when it will be no longer doubtful whether the general public opinion does call for a recharter of the bank. When that moment comes, I am for passing the measure, and shall propose it. I believe it will pass this house; I believe it cannot be, and will not be, defeated in the other, unless relief appears in some other form.

Public opinion will have its way in the houses of legislation and elsewhere. The people are sovereign; and whatever they determine to obtain must be yielded to them. This is my belief, and this is my hope. I am for a bank as a measure of expediency, and, under our present circumstances, a measure of necessity. I yield to no new-fangled opinions, to no fantastical experiments. I stand by the tried policy of the country. I go for the safety of property, for the protection of industry, for the

security of the currency. And, for the preservation of all these great ends, I am for a bank; and, as the measure most likely to succeed, I am for continuing this bank, with modifications, for a longer or a shorter period. This is the measure which I shall propose, and on this question I refer myself, without hesitation, to the decision of the country.

At a subsequent period of the same debate, in answer to observations of Mr. Forsyth, Mr. Webster said: —

The gentleman asks, What could be done if this house should pass a bill renewing the bank charter, and the other house should reject it? Sir, all I can say to this is, that the question would then be one between that other house and the people. I speak, Sir, of that honorable house with the same respect as of this. Neither is likely to be found acting, for a long time, on such a question as this, against the clear and well-ascertained sense of the country. Depend upon it, Sir, depend upon it, this "experiment" cannot succeed. It will fail, it has failed, it is a complete failure already.

Something, then, is to be done, and what is it? Congress cannot adjourn, leaving the country in its present condition. This is certain. Each house, then, as I think, will be obliged to propose something, or to concur in something. Public opinion will require it. Negative votes settle nothing. If either house should vote against a bank to-day, nothing would be determined by it, except for the moment. The proposition would be renewed, or something else proposed. The great error lies in imagining that the country will be quieted and settled, if one house, or even both, should pass votes approving the conduct of the Secretary in removing the public deposits. This is a grand mistake. The disturbing and exciting causes exist, not in men's opinions, but in men's affairs. It is not a question of theoretic right or wrong, but a question of deep suffering, and of necessary relief. No votes, no decisions, still less any debates in Congress, will restore the country to its former condition *without the interposition and aid of some positive measure of relief.* Such a measure will be proposed; it will, I trust, pass this

house. Should it be rejected elsewhere, the consequences will not lie at our door. But I have the most entire belief, that, from absolute necessity, and from the imperative dictate of the public will, a proper measure must pass, and will pass, into the form of law.

The honorable gentleman, like others, always takes it for granted, as a settled point, that the people of the United States have decided that the present bank shall not be renewed. I believe no such thing. I see no evidence of any such decision. It is easy to assume all this. The Secretary assumed it, and gentlemen follow his example, and assume it themselves. Sir, I think the lapse of a few months will correct the mistake, both of the Secretary and of the gentlemen.

The honorable member has suggested another idea, calculated, perhaps, to produce a momentary impression, which has been urged in other quarters. It is, that, if the bank charter be renewed now, it will necessarily become perpetual. Sir, if the gentleman only means that, if we now admit the necessity or utility of a national bank, we must always, for similar reasons, have one hereafter, I say with frankness, that, in my opinion, until some great change of circumstances shall take place, a national institution of that kind will always be found useful. But if he desires to produce a belief that a renewal of its charter now would make *this* bank perpetual, under its present form, or under any form, I do not at all concur in his opinion. Sir, nobody proposes to renew the bank, except for a limited period. At the expiration of that period, it will be in the power of Congress, just as fully as it is now, to continue its charter still further, or to amend it, or let it altogether expire. And what harm or danger is there in this? The charter of the Bank of England, always granted for limited periods, has been often renewed, with various conditions and alterations, and has now existed, I think, under these renewals, nearly one hundred and fifty years. Its last term of years was about expiring recently, and the Reform Parliament have seen no wiser way of proceeding than to incorporate into it such amendments as experience had shown necessary, and to give it a new lease. And this, as it appears to me, is precisely the course which the interest of the people of the United States requires in regard to our own bank. The danger of perpetuity is wholly unfounded, and all alarm on that score

is but false alarm. The bank, if renewed, will be as much subject to the will and pleasure of Congress as a new bank with a similar charter, and will possess no more claim than a new one for further continuance hereafter.

The honorable gentleman quotes me, Mr. President, as having said, on a former occasion, that, if Congress shall refuse to re charter the bank, the country will yet live through the difficulty. Why, certainly, Sir, I trust it will live through it. I believe the country capable of self-government, and that they will remedy not only such evils as they cannot live through, but other evils also, which they could live through, and which they would bear, if necessary, but which, nevertheless, being great evils, and wholly unnecessary, they are not disposed to endure. Is the gentleman entirely satisfied, if he can only persuade himself that the country can live under the evils inflicted on it by these measures of the executive government? Sir, I doubt not the people will live through their difficulties; and one way of living through them is to put a speedy close to them. The people have only to will it, and all their present sufferings are at an end. These sufferings flow from no natural cause. They come not from famine or pestilence, nor from invasion or war, nor from any external public calamity. They spring directly and exclusively from the unwise and unjustifiable interference of the Secretary of the Treasury with the public moneys. By this single act, he has disordered the revenue, deranged the currency, broken up commercial confidence, created already a thousand bankruptcies, and brought the whole business of the country into a state of confusion and dismay. This is a political evil, and a political evil only. It arises from mismanagement entirely and exclusively. This mismanagement, this sole cause of the whole distress, the people can correct. They have but to speak the word, and it is done. They have but to say so, and the public treasure will return to its proper place, and the public prosperity resume its accustomed course.

They have but to utter this supreme command, these words of high behest; they have but to give to the public voice that imperative unity which all must hear, and all must obey; and the reign of misrule and the prevalence of disaster will expire together. Public sufferings will then be removed by removing their cause. Political mischiefs will be repaired by political re-

dress. That which has been unwisely done will be wisely undone; and this is the way, Sir, in which an enlightened and independent people *live through their difficulties.* And, Sir, I look to no other source for relief; but I look confidently to this. I dare not, indeed, under present appearances, predict an immediate termination of present trouble; that would be rash. It may take time for the people to understand one another in different parts of the country, and to unite in their objects and in their means. Circumstances may delay this union of purpose and union of effort. I know there are powerful causes, now in full activity, which may not only prolong, but increase, the commotion of the political elements. I see indications that a storm is on the wing. I am not ignorant of the probable approach of a crisis in which contending parties, and contending passions, are to be intensely excited; in which the great interests of the country are all to be deeply convulsed; and which, in its consequences, may even touch the action of the government itself. In preparing to meet such a crisis, should it come, I found myself on those great truths which our own experience and the experience of all other nations have established. I yield to no new-fangled theories, to no wild and rash experiments. I stand, too, upon those high duties which the Constitution of the country has devolved upon us; and thus holding on, and holding fast, by acknowledged truth and manifest duty, I shall take events as they come; and although these black and portentous clouds may break on our heads, and the tempest overpower us for a while, still that can never be for ever overwhelmed, that can never go finally to the bottom, which truth and duty bear up.

CENTRAL RESERVE

END OF VOLUME THIRD.